



# **NAVAL POSTGRADUATE SCHOOL**

**MONTEREY, CALIFORNIA**

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## **MBA PROFESSIONAL REPORT**

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**Analysis of Performance-Based Service Contracting and Its  
Applicability to Turkey's Defense Acquisition Activities**

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**By:       Gunaydin Yilmaz  
              December 2010**

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**ANALYSIS OF PERFORMANCE BASED SERVICE CONTRACTING AND ITS  
APPLICABILITY TO TURKEY'S DEFENSE ACQUISITION ACTIVITIES**

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Submitted in partial fulfillment of the requirements for the degree of

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# **ANALYSIS OF PERFORMANCE BASED SERVICE CONTRACTING AND ITS APPLICABILITY TO TURKEY’S DEFENSE ACQUISITION ACTIVITIES**

## **ABSTRACT**

The purpose of this MBA professional report is to explore and analyze Performance Based Service Contracting (PBSC) and provide a clear description of PBSC to Turkish Department of Defense policy-makers. This Report includes a literature review and background information about PBSC, current PBSC implementation in the U.S., current Turkish acquisition rules and regulations, the legal barriers to implementation of PBSC and recommendations (based on the findings) to the Turkey Ministry of Defense for the implementation of PBSC in Turkey.

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## **LIST OF ACRONYMS AND ABBREVIATIONS**

AQL	Acceptable Quality Level
COR	Contracting officer's representative
COTR	Contracting officer's technical representative
DoD	Department of Defense
FAR	Federal Acquisition Regulation
FASA	Federal Acquisition Streamlining Act
GAO	United States Government Accountability Office
GASB	Governmental Accounting Standards Board
GPRA	Government Performance & Results Act
IST	Integrated Solution Team
MBA	Master of Business Administration
MOD	Turkey Ministry of Defense
NATO	North Atlantic Treaty Organization
NCO	Non-Commissioned Officer
OFPP	Office of Federal Procurement Policy
OMB	The Office of Management and Budget
SARA	Services Acquisition Reform Act
PBC	Performance-Based Contracting
PBSA	Performance-Based Services Acquisition
PBSC	Performance Based Service Contracting
PEC	Procurement Executives Councils
PMF	Performance Measurement Factors
PMS	Performance Measurement Standards
PWS	Performance Work Statement
QAE	Quality Assurance Evaluator
QAP	Quality Assurance Plan
QASP	Quality Assurance Surveillance Plan
RFP	Request for Proposal
SOO	Statement of Objectives
U.S.	United States

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## **I. INTRODUCTION**

### **A. PROBLEM DESCRIPTION**

We live in a commercial world in which most government agencies and commercial firms conduct business with one another. Today, the world is very competitive and no agency or firm can do everything on its own. They usually use outsourcing to perform their mission, and their primary tool for outsourcing is service contracting. These contracts provide a wide range of services that touch upon many or all of a given agency's activities. These include health care, support to intelligence activities, contracting support, and various professional, management and administrative services such as budget and program management. In addition, service contracts provide a wide range of support to U.S. troops in Afghanistan and Iraq, including base support, weapons and equipment maintenance, communication support, interrogators, security, engineering support, and administrative support (United States Government Accountability Office, 2009).

However, it is difficult to ensure that the government gets the best value for the taxpayers' money and obtains quality services in a cost-efficient and effective manner in every service contract. Every contract has risk that the government may receive products or services that are over budget, delivered late or of unacceptable quality. To deal with these kinds of problems, Performance-Based Service Contracting (PBSC) may be a solution for government agencies. Government can use PBSC as a method of procuring services from the private sector.

In traditional service contracts, agencies usually spend their time preparing detailed specifications or performance work statements for the contractors. The aim of these documents is to tell how the contractor must go about meeting the agencies' needs. In these documents, the government agencies dictate their solutions to the contractors. By doing so, government agencies try to solve their problems with outside help instead of doing it themselves. By binding the contractors to work statements, agencies impose their solutions on the contractors.

To avoid this traditional way and get the best performance from service contracting, PBSC has been developed and mandated in the United States. “Performance-based contracting methods are intended to ensure that required performance quality levels are achieved and that total payment is related to the degree that services performed meet contract standards. The theory of performance-based service contracting is that it improves the quality of services, results in cost savings, maximizes competition and innovation, and shifts the risk from the government to industry because the contractor is responsible for achieving the objectives” (Department of Defense Inspector General, 2007). In this procurement concept, agencies just describe their needs in terms of what is to be achieved rather than how it is to be performed.

In the United States, PBSC has been around for many years, and mandated in government since the early 1990s. Policies encouraging and mandating PBSC have been in place for more than 20 years. Implementing performance-based service contracting is not just a DoD initiative; various organizations use PBSC. In the last decade, using PBSC in federal government acquisition activities has become a top government management priority, reinforced at several levels throughout the federal government, including:

- The President's Management Objectives
- Congressional Intent
- The Procurement Executives Councils (PEC)
- The Department of Defense
- Defense Components

Although service contracting is used to support Turkish Ministry of Defense activities, this acquisition concept, though widely used in the United States, is not known in Turkey. In the near future, most of the service support for Ministry of Defense activities will be outsourced to the private sector. In parallel with current trends, PBSC will become an important tool to assure that Turkish taxpayers are receiving the best value for the services purchased by their government. The main goal of this research is to analyze PBSC and then assess its benefits to Turkish taxpayers. To achieve the goal, this study analyzes PBSC’s background and history, current implementation in the U.S., and benefits and challenges. The current Turkish procurement environment and regulations

are also reviewed to reveal potential problems if PBSC is implemented in Turkey. After the analysis, a recommendation is made as to whether PBSC should be implemented into the Turkish Ministry of Defense.

## **B. SCOPE**

This research focuses on: a literature review and historical development of Performance-Based Service Contracting (PBSC), the philosophy behind this concept, expected outcome and objectives of PBSC, current implementation in the U.S., important features of PBSC and the contract management process for performance-based service contracts, expectations and benefits of PBSC, challenges and problems experienced with PBSC. The current Turkey Ministry of Defense acquisition environment and current Turkish rules and regulations on government acquisition are reviewed and recommendations made for the Turkish Ministry of Defense.

## **C. RESEARCH QUESTIONS**

### **1. Primary Research Question**

This research is primarily concerned with answering the question: Is Performance-Based Service Contracting an appropriate procurement concept to support Turkey Ministry of Defense operations?

### **2. Secondary Research Questions**

- What are the expected outcomes and objectives of PBSC?
- What are the challenges of PBSC?
- What implementation issues and barriers must be addressed to implement PBSC in Turkish defense activities?

## **D. PROJECT ORGANIZATION**

This Professional MBA Report analyzes the PBSC concept and its applicability in Turkey. The report looks at the basic features of this concept, as well as the background and problems stemming from its implementation.

Chapter II focuses on the background and history of PBSC. With the help of the literature review, the core idea behind this procurement method is revealed. To identify and understand clearly this concept, the literature review involves Internet search, reports, academic works and review of more than forty articles related to performance-based contracting. The historical development, expected outcome and objective of this acquisition concept are also discussed.

Chapter III describes current implementations of PBSC in the United States. This chapter focuses on U.S. federal rules and regulations related to PBSC and the contract management process for the performance-based contract. Every step taken in the performance-based contract management process is described and clarified. Chapter III also presents benefits and challenges of PBSC. This chapter states what implementation issues and barriers must be addressed to make PBSC successful. It is very important to reach a clear decision in this chapter, because the recommendation and conclusion are based on its findings.

Chapter IV focuses on the current Turkish Ministry of Defense service acquisition environment. This chapter determines which service type is used by MOD and any barriers or policies that prevent use of this concept. The current service acquisition process in Turkey is discussed in detail.

Chapter V presents the recommendation to the Turkish Ministry of Defense for the implementation of Performance-Based Service Contracting.

## **E. METHODOLOGY**

This report uses qualitative research technique to focus on understanding all aspects of PBSC. The information gathered provides a deeper understanding of this procurement concept and is used to generate recommendations for the Turkish Ministry of Defense. The following methods are used:

- A search of current U.S. federal rules and regulations related to PBSC on the Internet
- A review of Executive orders, guidance policies and GAO reports related to PBSC

- A review of the research available in the library, as well as articles and acquisition magazines
- A search of Defense Acquisition University and Acquisition Central websites to understand the contract management process for the performance-based contract
- Development of conclusions and recommendations based upon analyses of all documents and findings
- A search of the current Turkish rules and regulations related to service acquisition on the Internet.

## **F. SUMMARY**

Performance-Based Service Contracting is not only a solution for commercial firms but also for government agencies. Day by day, use of PBSC is increasing in the government sector and defense activities. PBSC can be used to procure a wide range of services that touch almost all of the department's activities, including health care, support to intelligence activities, contracting support, management and administrative services, weapons and equipment maintenance and communication support. It is a primary tool used in the United States to ensure that the federal government gets best value for the taxpayers' money and obtains quality services in a cost-efficient and effective way when outsourcing.

Service procurement is used to support Turkish Ministry of Defense activities, but PBSC is unknown in Turkey. It is projected that, in the future, the Ministry of Defense will outsource most of the service requirements from private sector. In parallel with current trends in the world, PBSC will become an important tool to assure that taxpayers are receiving the best value for the service purchased in the Turkish procurement environment. The following chapters of this research focus on PBSC and analyze its benefits and challenges. The current Turkish procurement environment and regulations are also analyzed to reveal potential barriers if PBSC is implemented in Turkey. The following chapters help answer the question: Is Performance-Based Service Contracting an appropriate procurement concept to support Turkey's Ministry of Defense operations?

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## **II. LITERATURE REVIEW**

### **A. INTRODUCTION**

In the current DoD procurement environment, PBSC officially has been a hot issue on the agenda since April 1991, when the Office of Federal Procurement Policy (OFPP) issued Letter 91-2 on service contracting. OFPP Policy Letter 91-2 established the policy of utilizing a performance-based approach to service contracting. Following that, Garrett (2005) stated,

Performance-based acquisition is no longer an option—it is a business necessity in both public and private business sector. The U.S. federal government had mandated that agencies and departments comply with performance-based guidelines and requirements, pursuant to the Federal Acquisition Regulation (FAR) and specific agency policies. (p. 42)

Following OFPP Letter 91-2, the Performance-Based Acquisition concept was further strengthened by legislation passed in the 1990s, such as the Government Performance Results Act of 1993, the Federal Acquisition Streamlining Act (FASA) of 1994 and the Clinger-Cohen Act of 1996, commonly referred to as the Federal Acquisition Reform Act, or FARA. Recently, the Services Acquisition Reform Act (SARA) (Title XIV of the 2004 National Defense Authorization Act) was passed; all these reforms share the goal of paying taxpayer dollars only for successful performance. The main goal of this concept is to get best value in response to taxpayer dollars spent, by focusing on the result of the contracting rather than on the process. This approach brought PBSC to center stage in service acquisition and made it a major emphasis within the federal procurement environment.

According to the Office of Federal Procurement Policy (1998):

Performance-Based Service Contracting (PBSC) emphasizes that all aspects of an acquisition be structured around the purpose of the work to be performed as opposed to the manner in which the work is to be performed or broad, imprecise statements of work which preclude an objective assessment of contractor performance. It is designed to ensure that contractors are given freedom to determine how to meet the

Government's performance objectives that appropriate performance quality levels are achieved, and that payment is made only for services that meet these levels. (p. 4)

Although two decades have passed since the federal government officially mandated performance-based contracting as an efficient means of procurement, confusion remains about this concept. Researchers and procurement authorities do not have common ground about the definition and implementation of this concept, a fact borne out by reports and reviews documenting implementation problems. For example, the United States Government Accountability Office (GAO) Report (2008) stated,

Over the past several years, we have found that if agency service acquisitions, including those that are performance-based, are not appropriately planned, structured, and monitored, there is an increased risk that the government may receive products or services that are over budget, delivered late, and of unacceptable quality. (p. 1)

The GAO (2008) also stated,

Over the last decade, the use of federal service contracting has increased and now accounts for over 60 percent of federal procurement dollars spent annually. GAO work has found that if acquisitions are not appropriately planned, structured, and monitored, there is an increased risk that the services provided will not fulfill intended acquisition outcomes or, ultimately, meet agency needs. (p. 5)

That is why, for the procurement workforce, it is very important to understand PBSC, which defines measurable performance expectations in terms of outcomes or results as opposed to directing performance methods or work. The purpose of this literature review is to explore the prior study of PBSC. This chapter describes the literature relevant to PBSC within the federal government, the Department of Defense (DoD) and the objectives that are established for PBSCs. This chapter includes basic definitions, a description of law and public policies, a synopsis of regulations, DoD guidance, and previous article and findings conducted by the researchers.

## **B. DEFINITIONS, LAW AND FEDERAL REGULATIONS IN THE U.S.**

Performance-Based Service Contracting has been in place more than twenty years in the federal procurement environment and, over the years, it has been the preferred

procurement method to acquire services from the private sector. But it is difficult to choose a simple definition of PBSC. There are numerous definitions and sometimes they are different from each other. It is essential to define PBSC clearly, since it has transformed so dramatically the nature of service delivery. PBSC has many benefits, such as alleviating the responsibility of government and shifting risk to the contractors. The procurement workforce should master this concept in order to gain the utmost benefits from it.

The Office of Federal Procurement Policy's Guide to Best Practices for Performance-Based Service Contracting (1998) states,

Performance-based service contracting (PBSC) emphasizes that all aspects of an acquisition be structured around the purpose of the work to be performed as opposed to the manner in which the work is to be performed or broad, imprecise statements of work which preclude an objective assessment of contractor performance. It is designed to ensure that contractors are given freedom to determine how to meet the Government's performance objectives that appropriate performance quality levels are achieved, and that payment is made only for services that meet these levels. (p. 5)

The Department of Defense's "Guidebook for Performance-Based Services Acquisition (PBSC) in the Department of Defense," dated December 2005 defines PBSC as

acquisition methods and techniques that describe and communicate measurable outcomes rather than direct performance processes. It is structured around defining a service requirement in terms of performance objectives. Simply put, it is a method for acquiring and placing responsibility for how it is accomplished on the contractor.

Federal Acquisition Regulation (FAR) 37.102 states that performance-based acquisition (see subpart 37.6) is the preferred method for acquiring services (Public Law 106-398, section 821). FAR subpart 37.6 indicates that Performance-Based Contracts for services shall include:

- A performance work statement (PWS)
- Measurable performance standards (i.e., in terms of quality, timeliness, quantity, etc.) and the method of assessing contractor performance against performance standards

- Performance incentives where appropriate. When used, the performance incentives shall correspond to the performance standards set forth in the contract (see 16.402-2)

As clearly seen above, FAR Part 37.6 sets forth criteria for the minimum mandatory requirements for performance-based acquisition. McClure & Kennedy (2005) explained and defined these criteria in their research. They stated that,

to meet these criteria for 'performance-based,' a contract should include the following essential elements part:

**Performance Work Statement (PWS):** Describes the requirements in terms of measurable results or delineation of explicit objectives rather than by detailed prescriptive methods.

**Performance Measurement Factors/Standards (PMFs):** Criteria and related performance metrics by which to determine whether performance outcomes have been met; defining what is considered 'acceptable performance.'

**Incentives, Disincentives or Penalties:** While not mandatory, incentives should be used, as appropriate, to encourage performance that will exceed the required performance standards. Penalties and incentives complement each other. Disincentives are contract provisions or penalties that address how to manage performance that does not meet established performance standards.

**Quality Assurance Plan (QAP):** Methodology for determining how contractor performance will be measured and assessed against established objective performance standards. (p. 18)

The definitions above are the official current definition of Performance-Based Service Contracting. Before these definitions were established, researchers and acquisition experts tried to define PBSC and clarify its basic features. The followings are the most well known studies about this topic.

Eggers (1997) stated that

Performance contracts clearly spell out the desired end result expected of the contractor, but the manner in which the work is to perform is left to the contractor's discretion. Contractors are given as much freedom as possible in figuring out how to best meet government's performance objective. By measuring a contractor's performance against a clear standard, performance contracting shifts the emphasis from a focus on process to a

focus on product. Government's management role changes from prescribing and monitoring inputs to collecting and generating the results based data needed to measure the impact of the work performed. (p. 2)

Martin (2002) claimed that there is no uniform definition of PBSC and proposed a comprehensive definition that would encompass all approaches. In his work, he examined the commonly used definition of PBSC and made a comprehensive definition of it. His findings and explanation about PBSC are stated below:

PBSC represents one of those interesting phenomenon that arise from time to time in public procurement, where practice is outpacing theory. Consequently, no commonly agreed upon definition of performance-based contracting exists. To fill the void, several public procurement organizations have proposed working definitions of PBSC. For example, the Office of Federal Procurement Policy (OFPP) defines performance-based contracting as an approach where the statement of work is based on “objective, measurable performance standards outputs” (OFPP, 1998, p. 5). In a related policy memorandum addressed to federal procurement officials, the OFPP provides further guidance stating that a performance-based contract contains “performance standards (i.e., quality, quantity, timeliness)” (OFPP, 1997, p. 2). The Department of Defense (DoD), which contracts for more services than any other federal department or agency, defines a performance-based contract as one that “describes the requirements in terms of measurable outcomes rather than by means of prescriptive methods” (DoD, 2000, p. 1). The National Association of State Purchasing Officials (NASPO) has also joined in with its own working definition. According to NASPO, performance-based contracting is characterized by, “specification of the outcome expectations of the contract and the requirement that any renewals or extensions be based on the achievement of the identified outcomes” (NASPO, 1997, p. 120) (emphasis added in all quotations). While not made explicit in these definitions, the implicit assumption in all of them is that contractor compensation, in part or in total, may also be tied to performance.

The various working definitions of performance-based contracting that have been proposed may appear at odds with one another, particularly given their various emphasis on: outputs, quality, quantity, timeliness, and outcomes. In reality, however, a great deal of commonality exists. One can argue that these various definitions, rather than saying different things, are merely saying the same thing differently. All the proposed definitions have a similar perspective: they attempt to move service contracting away from its historical reliance on input and process design specifications (telling contractors how to perform the work) in favor of output, quality and outcome performance specifications (telling contractors what is

expected and leaving the how-to up to them). By allowing contractors to determine how best to accomplish the work, performance-based contracting strives to increase creativity and innovation in government service delivery.

By building upon the various definitions that have been proposed, a consensus definition of PBSC can be derived. A performance-based contract can be defined as one that “focuses on the outputs, quality and outcomes of service provision and may tie at least a portion of a contractor’s payment as well as any contract extension or renewal to their achievement” (Martin, 1999b, p. 8). This consensus definition has several advantages. It is expansive, rather than restrictive, by suggesting that performance-based contracting can involve outputs, quality, outcomes or any combination thereof. This consensus definition is also compatible with the Government Performance & Results Act (GPRA) at the federal level as well as the Service Efforts and Accomplishments (SEA) reporting initiative of the governmental Accounting Standards Board (GASB, 1994) at the state and local government levels. Because this consensus definition is compatible with GASB’s SEA reporting, it is also compatible with most state government performance measurement and performance budgeting systems (Melkers & Willoughby, 1998). Finally, the consensus definition is reflective of the actual performance-based contracting activities of state human service agencies. (pp. 56–58)

There exists some overlap in terminology usage between Performance-Based Service Contracting (PBSC) and Performance-Based Service Acquisitions (PBSA). Until recently, government official rules and regulation used the term PBSC, while some scholars preferred PBSA. In fact, there are differences between these terms. Acquisition is a comprehensive that covers all steps, from acquisition planning to contract close out. Contracting is only a step in the acquisition cycle. Recently, PBSA has overtaken PBSC as the term of choice in the United States public procurement environment.

Another important issue is that PBSC is not itself a contract type. There is a common misperception that Performance-Based Contracting refers to a specific type of contract. PBSA is defined in FAR Part 37.6, which does not prefer any type of contract. Contract types are mostly used to motivate contractors to perform at an optimal level. PBSC has traditionally been used to procure services from the private sector.

Jennings & Jackson (2002) defined PBSA as a process that,

involves strategies, methods, and techniques for acquiring services that communicate the desired end result rather than dictating detailed performance processes. It is a method for acquiring what is required and placing responsibility for how it is accomplished on the contractor. A major objective of PBSA is to save money. An added objective is to give contractors the freedom to determine how best to meet the government's requirements. This freedom fuels innovation. PBSA results in a contract that specifies what is required and makes the contractor responsible for determining the best method for accomplishing that end result. (p. 26)

Moore, Segal, & McMahon (2003) authored many studies and articles on privatization, and competitive sourcing areas. Their findings related to PBSC follow:

One powerful reform that can save government money and improve program results is implementing PBSC for as many contracts as possible. PBSC is the soliciting of bids based on what results government wants accomplished, rather than what activities it wants conducted. In other words, the emphasis is on outcomes rather than inputs. This requires performance standards to be included in the contract and contractual payments tied to the achievement of results.

The better the performance standards for a given service or activity, the easier it will be to monitor the contract effectively. The design of the deal makes a lot of difference in the success of monitoring the contractor. Because these factors are so interdependent, it is often best to write the performance standards and the monitoring plan simultaneously. Indeed, the Federal Office of Management and Budget recommends simultaneous development of performance measures and monitoring plans as a best practice.

For many agencies, this would mark a significant change in the way of doing business. By compensating a contractor for results rather than effort or activity, the transaction becomes more efficient for both the vendor and government. The vendor has the freedom and flexibility to do what it does best (produce the service) without micromanagement by government (p. 5).

According to Garrett (2003):

When a contract is based on performance, all aspects of the acquisition are structured around the purpose of the work to be performed, rather than the manner in which it is to be done. The government seeks to elicit the best performance the private sector has to offer, at a reasonable price or cost, by stating its objectives and giving contractors both latitude in determining

how to achieve them and incentives for achieving them. In source selection, for example, the government might publish a draft solicitation for comment, use quality-related evaluation factors, or both. The statement of work will provide performance standards, rather than spell out what the contractor is to do. The contract normally contains a plan for quality assurance surveillance. In addition, the contract typically includes positive and negative performance incentives. (p. 14)

Sanchez (2004) tried to find answers to the question: what is PBSC? In his article, he defined PBSC as,

a process where the end goal is simply stated as the contract requirement. What's left out, or should be left out, is the process of how the contractor should get to that goal, product, or result. The effort is meant to allow contractors the leeway to use best practices and implement innovations to deliver goods or services.

He also accepts that the four elements stated in FAR 37.6 are the skeletal “must-haves” for every PBS contract. According to him, every PBC must define:

- The requirement in terms of results
- Measurable performance requirements and how the measurements will be done
- How reductions in fee/price will be taken when performance does not meet requirements
- Incentives (positive and negative if necessary) (Sanchez, 2004, p. 56)

Boykin (2005) stated that,

Simply defined, performance-based contracting allows government to acquire services via contracts that define what is to be achieved, not necessarily how it is done. This creates a boon for government procurement, providing best-value products and services and pre-screened contractors. In addition, performance-based contracting gives industry the freedom to bring new approaches to the government table. The reality of performance-based contracting for the government procurement official is that responsibilities have not lessened; they have changed, and radically so. This move to a solutions-based approach means government no longer has to define precisely how the contractor will achieve specified objectives. But now, government procurement officials need to be well schooled in the methodology for arriving at measurable metrics and acceptable quality levels when developing the performance work statement (PWS) or statement of objectives (SOO). (p. 6)



Garrett (2007) defined PBSC as “a strategic method to manage business arrangements by promoting flexibility and innovation and focusing on outcomes, while using performance standards, metrics, and incentives to motivate superior results.” (p. 56).

Newell (2008) thought that,

Performance-based acquisition was designed to help agencies reap the benefits of private sector innovation. Proponents of the initiative say that for years, the government has micromanaged its contracts by spelling out every detail of how it wanted goals to be achieved. In the performance-based approach, an agency says what problem needs to be solved and allows contractors to make bids detailing their proposed solutions. The agency is charged with developing clear ways to measure the result as well as the contractors' performance over the course of the contract.

Evidence-Based Associates (2010) states on its website:

A performance-based contract changes the focus from process to guaranteed performance. A performance-based contract transfers performance risk to the provider. Providers have the freedom to innovate, but they are held accountable for the results and performance-based contracts have a proven history of reducing program costs and increasing desired outcomes.

To this point, this chapter has discussed scholars' works and official documents related to Performance-Based Service Contracting and Performance-Based Service Acquisition. Although it is difficult to make a uniform definition, we can conclude that Performance-Based Service Acquisition has unique characteristic that distinguish it from traditional procurement methods. Some of the basic features of PBSA are stated below:

- Focuses on the desired results, the what, not the how
- Allows contractors to continually modify approach to ensure maximum performance
- Encourages innovation and shifts risk from government to contractors
- Uses incentives and remedies to motivate the highest levels of contractor performance
- Encourages frequent and open communications between the government and industry

PBSA describes the desired outcome of the process rather than giving a detailed, “how to” process the contractor must follow. Describing the requirement in terms of desired outcomes gives freedom to the contractor to choose the most efficient way to proceed. PBSA is concerned with defining the tasks to be performed by the contractor, establishing observable and measurable performance standards in the requirements of the contract, and developing a method to assess or survey the contractor’s performance in accordance with inspection and acceptance requirements of the contract. PBSA requires that agencies tell industry “what” they want accomplished as opposed to “how” to accomplish the requirement. This approach shifts a majority of the risk for successful performance from the government to the contractor. It allows industry to use innovative practices and control their ability to make profits based on their performance. PBSA is the best way to motivate a contractor to take responsibility for achieving acceptable performance. In this concept, contractors are allowed to devote the resources and intelligence necessary to make their own ideas work. Moreover, they do not have to stick to agency solutions dictated in the statement of work. In contrast, traditional contract management enforces the terms of the contract and binds the contractors to the work statement.

PBSA is an acquisition concept structured around the results to be achieved rather than the steps to be followed. The essence of PBSA is that the requirement is stated in terms of the desired results to the maximum extent possible, and minimizes language that tells the contractor how to do the work or how to achieve the result. A PBSA contract has four features:

- Performance Work Statement
- Measurable performance standards (in terms of quality, timeliness, and quantity)
- A method of assessing contractor performance to the standards
- Positive and negative performance incentives where appropriate.

The federal government model for implementing a PBSA is the “Seven Steps to Performance-based Services Acquisition.” This is a proposed model and an excellent guide to deal with a performance-based service contract. The model consists of the following seven steps:

- Establish an Integrated Solutions Team
- Describe the problem that needs solving
- Examine private-sector and public-sector solutions
- Develop a PWS or Statement of Objectives (SOO)
- Decide how to measure and manage performance
- Select the right contractor
- Manage performance

The seven steps are studied in detail in the section on implementation. Objectives of PBSA are evaluated in the following section.

### **C. BACKGROUND AND HISTORY**

With the growth of services contracting, government agencies began to explore new acquisition techniques in order to obtain services in a better way and focus on results rather than processes to get best value. They also wanted to benefit from industry's experience and innovations. Contracting authorities try to find a new way to improve flexibility, increase responsiveness, decrease costs, reduce risk and allow the organization to focus on their primary functions. The pursuit of new acquisition procedure led to the emergence of performance-based contracting. Performance-Based Contracts (PBCs) have been around for more than 20 years and have been used to acquire quality goods and services. In 1991, the federal government mandated that government agencies use them.

PBSA is a kind of performance-based contracting method to acquire service from the private sector. It was pioneered within the Department of Defense and then expanded to the whole government. PBSA officially became a current issue in the federal procurement environment after Office of Federal Procurement Policy (OFPP) Letter 91-2. With the release of this policy letter, use of performance-based services acquisition has been reinforced at several levels throughout the federal government. Some of the researcher findings related history of PBC and PBSA are stated below:

Arcidiacono (2003) explored PBSA's history very comprehensively in his Master thesis. He found that:

The Service Contract Act of 1965 established the Government's service contract labor standards. The Office of Management and Budget (OMB) under OMB Circular A- 76 dated 4 August 1983 established the Government's policy to (1) achieve economy and enhance productivity through Government/Commercial competition of activity whenever permissible, (2) retain Governmental functions in-house, and (3) rely on available commercial sources to provide commercial products and services. Overarching legislation including the Government Performance and Results Act of 1993, The Federal Acquisition Streamlining Act of 1994, and the Clinger-Cohen Act of 1996 have emphasized that the Government must better manage its internal and acquisition processes by establishing performance requirements, accurately measuring performance, and rewarding and penalizing good and bad performance, respectively.

Much of the historical foundation of performance-based requirements is rooted in hardware development and deployment. The Navy's submarine launched ballistic missile and NASA's space programs are stunning examples of performance-based achievement. Since Government acquisition has gradually shifted to service acquisition it clearly makes good business sense for the Government to apply performance-based concepts to service requirements in an attempt to increase service delivery efficiency. The Government has reinforced this performance-based philosophy through a series of services specific policies and regulations.

The Office of Federal Procurement and Policy (OFPP) under Policy Letter (P.L.) 91-2 dated 9 April 1991 provided a definition of performance-based contracting and established the Government's service contracting policy. The Federal Acquisition Circular (FAC) 97-01 dated 22 August 1997 implemented OFPP P.L. 91-2 through the amendment of Federal Acquisition Regulation (FAR) Parts 7, 16, 37, 42, 46, and 52 . The most critical aspect of the FAC 97-01 amendment was the establishment of FAR Subpart 37.6, Performance-Based Contracting. (p.11)

Edwards & Ralph's (2006) study found the following related to the history of PBSA:

PBSA, in various manifestations, has a long history. During 1969-1971, the Office of Economic Opportunity (OEO) in the Department of Health, Education, and Welfare experimented with an outcomes-based approach to contracting for educational services. The results were mixed and the program was dropped. In September 1979, the Air Force adopted a comprehensive performance-based approach to contracting for base support services, which OFPP adopted for government-wide use in October 1980. The efforts of the Air Force and OFPP produced few, if

any, positive results. The 1991 OFPP policy letter was a response to growing concerns about the amounts that agencies were spending to buy services and the quality of the services they were receiving. However, agencies were slow to respond to the policy letter, and although the letter called for FAR implementation before the end of 1991, it was not until 1997 that the FAR was amended to include rules for PBSA. Since 1997, agencies have tried to use the technique, but with disappointing results. Implementation goals were established, but not achieved.

Government acquisition officials and industry representatives have expressed doubts about the success of PBSA, independent reviews have not validated predictions and anecdotal claims of improvements in quality and reductions in cost, and people at the working level are frustrated. In 2001 and 2002, the Honorable Angela Styles, then Administrator of OFPP, told Congress that performance-based services acquisition had not been more successful because the concept had not been adequately defined. In July 2003, an interagency team assembled by OFPP recommended minor changes to the FAR, which were published in December 2005. (p. 34)

PBSA became the prime federal procurement method during the Bush administration, which emphasized performance as a key focus of its management agenda. The President's Management Agenda, announced in summer 2001, has focused on results and made agencies accountable for meeting the goals and delivering the services to the taxpayers they serve (Yabusaki, 2008).

That is why, during the Bush administration, PBSA became the preferred method of procuring services from the private sector. The Administration encouraged agencies to use this method. According to the Office of Federal Procurement Policy, agencies increased their PBSA from 26 percent in 2001 to approximately 45 percent of all contracts in 2007 (Newell, 2008).

The important events related to PBSA are shown in Table 1.

Table 1. Chronicle of PBSA

<b>Year</b>	<b>Important Events</b>
1969-71	Department of Health, Education, and Welfare experimented with PBA for educational services; results were mixed
1979	Air Force adopted performance-based approach for base support service contracts
1980	Adopted by OFPP for government-wide use
1991	OFPP Policy Letter 91-2, PBSA preferred method for service contracting
1993	Government Performance Results Act
1994	Federal Acquisition Streamlining Act; this Act led to new methods of procurement
1994	OFPP initiated, in October 1994, a government wide pledge pilot project to encourage the use of PBSA.
1997	PBA first implemented in the FAR
2001	Public Law 106-398, Section 821 – Added to the FAR
2001	OFPP sets Government-wide goal of 50% for use of PBA in eligible service contracts by FY 2005
2002	GAO issues report (GAO-02-1049) finding that documents did not support agencies' claims of having implemented PBA.
2002	GSA introduces Seven Steps to Performance-Based Services Acquisition website
2002	OFPP Head testifies before Congress on agencies' slow implementation of PBA
2003	House Committee on Government Reform introduced SARA
2003	OFPP heads Interagency Task Force On PBSA
2004	OFPP issues policy memo adopting some of the Task Force's recommendations
2004	OFPP adopted the Seven Steps Guide
2006	FAR revised to incorporate provisions of OFPP policy memo

Government-wide, the Seven Steps Guide is a very critical tool to implement PBSA. By memo on September 7, 2004, OFPP adopted the Seven Steps Guide as the "official" guide on this topic. As stated on the Seven Steps official website:

In 2001, the Department of Commerce established an interagency team to write a comprehensive and clear guide to help agencies meet their performance-based contracting goals set out by the Procurement Executives' Council. Agencies represented on the team were Agriculture, Commerce, Defense, GSA, and Treasury; the team was supported by Acquisition Solutions®, Inc., and with their help, the guide was placed on the Internet. The General Services Administration took responsibility for

the project in 2003, and they continue to manage the Seven Steps web site. OFPP is leading a broader-based interagency team in managing the content of the Seven Steps guide, along with working towards meeting the 2006 SARA Panel recommendations. Acquisition Solutions® continues to provide support. (Acquisition Central, 2006)

We can conclude that Performance-Based Service Acquisition was used for the first time between 1969 and 1971 by the Department of Health, Education, and Welfare. In the DoD environment, the Air Force adopted the performance-based approach for base support service contracts in 1979. During the 1980s, PBSA had reached Government-wide use and finally become an obligation and preferred method for service contracting after 1991, when OFPP Policy Letter 91-2 was released. This policy letter was issued in response to a growing concern that most of the government work was being procured from private markets. During the Bush administration, PBSA became the preferred method of procuring services, with yearly Executive Orders setting PBSA performance goals to continue to motivate agencies to use the PBSA strategy on eligible service actions. According to the last order, released on December 5, 2007, the Fiscal Year 2008 Performance-Based Acquisition Performance Goal was increased from 45 percent to 50 percent.

The growth in performance-based acquisitions brought some problems. Some agencies fell behind the initiative's goals due to lack of training. Resistance to the change in culture also played a role. PBSA was very new and totally different from traditional concepts. The acquisition workforce needed training about this new procurement concept. That is why OFPP adopted the Seven Steps Guide as the "official" guide on this issue. This guide was adopted to help agencies reach the goal laid out by the Administration. PBSA has now been used more than twenty years as an effective tool to acquire services in the United States. There are some challenges and problems stemming from implementation and the contract management process. These are mentioned in following chapters.

## **D. OBJECTIVES OF PERFORMANCE-BASED SERVICE ACQUISITION**

The GAO (2008) stated that, “Over the last decade, the use of federal service contracting has increased and now accounts for over 60 percent of federal procurement dollars spent annually” (p. 5). In the DoD, 53 percent of contract spending is for service acquisition. But we cannot say that the federal government gets the best value in every service contract. In service acquisition, the main objective is to get the right service, at the right time and in the right manner. The services obtained should meet cost, schedule, and performance requirements. If PBSA is successfully implemented it can help improve service acquisition outcomes and ensure that the services obtained meet cost, schedule, and performance requirements. This is because PBSA describes outcome-oriented requirements, measurable performance standards, and quality assurance surveillance plans.

According to the FAR, the principal objective of PBSA is to express government needs in terms of required performance objectives, rather than the method of performance, to encourage industry-driven, competitive solutions. Other important objectives of PBSA were stated by the DoD in 2000. DoD emphasized that, by describing requirements in terms of outcomes, agencies can help achieve the following objectives.

### **1. Maximize Performance**

Performance-Based Service Acquisition focuses on the outputs, quality and end result. Payment and other incentives are tied to contractors’ performance. PBSA clearly spells out what is expected of the contractor, but the method in which the work is to be performed is left to the contractor’s choice. This contract approach lets the contractor deliver service by following its own best practices and solutions. Contractors focus on their own processes rather than following the government agency’s orders.

### **2. Maximize Competition and Innovation**

PBSA was developed to benefit from private sector innovation. In the traditional procurement approach, the government spells out every detail of how it wants its goals to be achieved. In the performance-based approach, an agency says what problem needs to



be solved and allows contractors to propose their solutions. The contractors have the freedom and flexibility to come up with the best possible solution to meet the agency's need. The agency is charged with describing clear objectives and desired outcomes to measure the contractors' performance. In this way, innovation and industry experience are allowed to flourish by the agencies.

### **3. Encourage and Promote the Use of Commercial Services**

The vast majority of service requirements are commercial in nature. Use of Federal Acquisition Regulation (FAR) Part 12 (Acquisition of Commercial Items) procedures provides great benefits by minimizing the reporting burden and reducing the use of government-unique contract clauses and similar requirements, which can help attract a broader industry base.

### **4. Shift in Risk**

Performance-based contracts allow for better government control over contractors and greater assurances of accountability. The traditional contracts focus on procedures and process, which is why most of the quality assurance evaluator (QAE), contracting officer's representative (COR), or contracting officer's technical representative (COTR) cannot oversee the contract properly. PBSA allows the performance assessment personnel to focus on end results and outcomes. When contractors become responsible for achieving the objectives in the work statement through the use of their own best practices and processes, much of the risk is shifted from the government to industry.

### **5. Achieve Savings**

PBSA is considered to be the most cost-effective acquisition method because contractors are held accountable for the desired result and paid according to their performance. Most of the service requirements are commercial in nature, leading to maximum competition.

## **E. SUMMARY**

In the United States, most of the government departments outsource some services to perform their mission. The private sector provides a wide range of services including health care, support to intelligence activities, contracting support, and various professional, base support, communication support, interrogators, security, engineering support, and administrative support. Although service acquisition is used commonly in the federal environment, it is not always possible to get the best value for the taxpayers' money and obtain quality services. All contracts have risk that the government may receive products or services that are over budget, delivered late and of unacceptable quality. To deal with these kinds of problems, Performance-Based Service Contracting was developed. In the United States, PBSC has been the preferred method for procuring services from the private sector for the last twenty years. Since the mid-1990s, the current term for service acquisition is Performance-Based Services Acquisition (PBSA).

PBSA describes the desired outcome of the process rather than giving a detailed, "how to" process the contractor must follow. Describing the requirement in terms of desired outcomes give freedom to the contractor to choose the most efficient way to achieve desired outcome. PBSA is concerned with defining the tasks to be performed by the contractor, establishing observable and measurable performance standards in the requirements of the contract, and developing a method to assess the contractor's performance in accordance with inspection and acceptance requirements of the contract. The PBSA process requires that agency tell industry "what" it wants accomplished as opposed to "how" to accomplish the requirement. This approach shifts a majority of the risk for successful performance from the government to the contractor. It allows industry to use innovative practices and control their ability to make profits based on their performance. PBSA is the best way to motivate a contractor to take responsibility for achieving acceptable performance.

As the literature clearly shows, PBSC/PBSA has many advantages and some challenges. It has been used more than twenty years and until now any common and accepted definition could not be made. That is why it is obvious that some implementation problems and challenges can stem from this contracting method. The following chapters focus on implementation of PBSA in the United States and analyze the benefits and challenges of PBSA.

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### **III. IMPLEMENTATION, BENEFITS AND CHALLENGES**

#### **A. INTRODUCTION**

Performance-Based Service Contracting is the preferred method when procuring service in the United States.

The most important part of every system or process is the implementation or operation step. With the help of the implementation and operation process, we can easily identify the pros and cons of the system or the process. An excellent solution in theory may be total failure in practice. This rule is valid for the public procurement process. Sometimes enacted regulation by the parliament or senate is not practicable and causes unpredictable problems. Implementing a system that belongs to another legal system or culture in our own system needs careful study since every country has unique characteristics and regulations that can form obstacles. The purpose of this chapter discuss how the United States contracting authorities carry out PBSC when they procure service from the private sector and identify benefits and challenges.

This chapter describes current implementations of PBSC in the United States and clarifies every step taken in the PBSC management process. Benefits and challenges of PBSC are discussed in detail in this part. This chapter also highlights important issues and problems to address in order to ensure the process operates smoothly. These issues help in comparison between the public procurement processes of the United States and Turkey.

#### **B. CURRENT IMPLEMENTATION IN THE DOD ENVIRONMENT**

In the United States, federal service contracting accounts for 60 percent of federal procurement dollars spent. It is very important to get best value from this service contract. GAO has found that if acquisitions are not appropriately planned and monitored, the risk of over cost, schedule delays and poor performance will be high (United States Government Accountability Office, 2008, p. 5). To deal with this kind of risk, PBSA was developed but this acquisition concept has not been fully implemented government-wide

for a variety of reasons, including lack of knowledge and cultural resistance to changes. To overcome these problems, OFPP adopted the Seven Steps Guide as the "official" guide on PBSA.

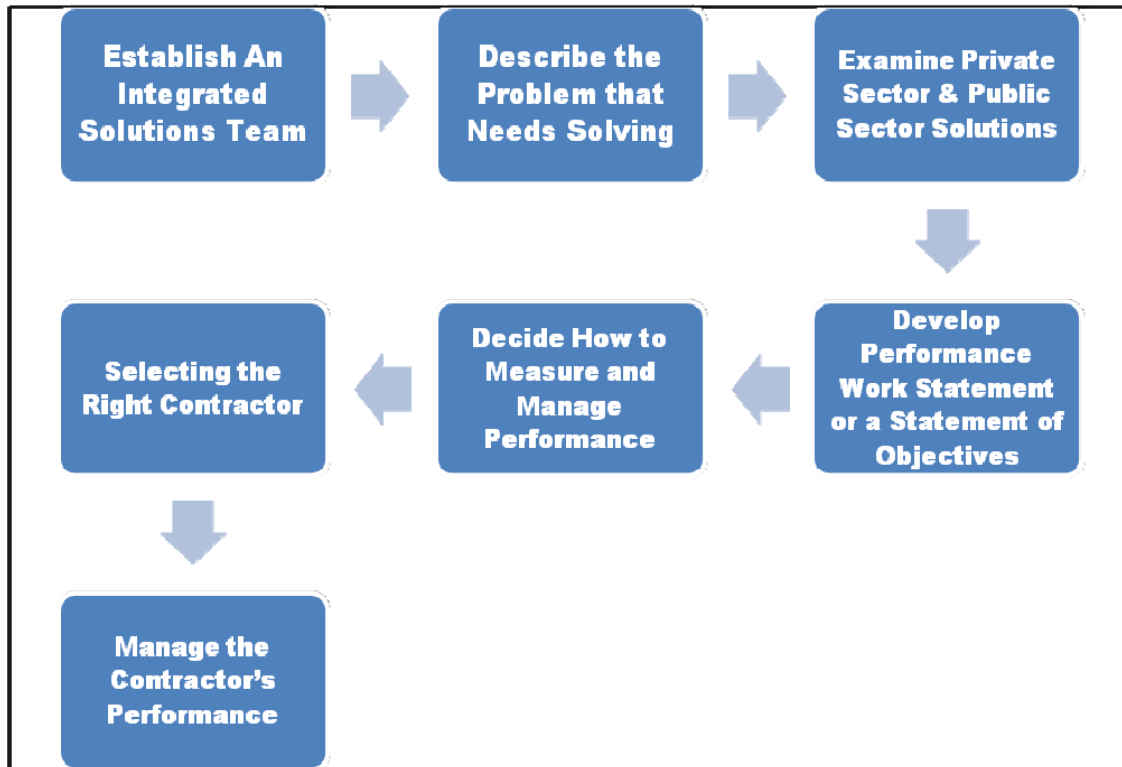


Figure 1. Seven Steps to Performance-Based Service Acquisition

The purpose of this guide is to assist agencies in implementing PBSA. The steps are logical and easy to understand, each building on the previous, and they provide guidance to agencies that enables them to move forward in this new paradigm. Although the Seven Steps Guide was written to enable and promote performance-based service acquisitions (PBSA), the processes and methodologies described in the Guide apply to all acquisitions in the current federal environment. The Seven Steps provide a framework for understanding performance-based services acquisition—and were conceived with the purpose of educating the greater "acquisition community," including the program managers, program staff, customers, and others whose participation is vital to a successful performance-based acquisition. This guide describes performance-based service acquisition using seven steps. The seven steps are described below:

### **1. Establish An Integrated Solutions Team**

An Integrated Solution Team must be established. This team should assist in the acquisition planning, solicitation development, evaluation, and award phase of the acquisition. Senior management and different experts from the organization, empowered to make decisions within their area of responsibility, should be involved in this team to make acquisition successful. Roles and responsibilities of each member of the team should be defined. Members of the team should know the customer's needs, interests, objectives, and possible objections. The Integrated Solutions Team is responsible to assure that the acquisition program satisfies legal and regulatory requirements, meets the agency's intended results, is consistent with the agency's strategic goals and remains on schedule and within budget. After contract award, the PBSA team will be closely involved in the surveillance of the resulting contractor's performance.

### **2. Describe the Problem That Needs Solving**

The function of any service acquisition is to support and improve an agency's performance goals and objectives. That is why the clear description of the problem that needs to be solved should be made in this stage. The Integrated Solutions Team should focus on what outcome is required rather than what resources are required. The ultimate intended result of the contract should be decided and linked to the agency's mission needs.

Because these are important to establish a clear target for success, which will then serve to focus the efforts of the integrated solutions team in crafting the acquisition, the contractors in competing for award and the government-industry team throughout contract performance. (Acquisition Central, 2006)

### **3. Examine Private Sector and Public Sector Solutions**

Once the acquisition's intended results have been identified, the Integrated Solutions Team (IST) should begin to examine both private sector and public sector solutions. This is called "market research," and it is a vital means of arming the team with the expertise needed to conduct an effective performance-based acquisition. Market research is the continuous process of collecting information to maximize reliance on the

commercial marketplace and to benefit from its capabilities, technologies, and competitive forces in meeting an agency need. Market research is essential to the government's ability to buy best-value products and services that solve mission-critical problems. Acquisition reform has opened the door to effective new approaches to market research that should be undertaken by the Integrated Solutions Team long before attempting to write a performance work statement. Market research is a good source for finding the appropriate contract type to fit a specific situation. The PBSA team can utilize negotiations with the contractor to determine the right contract type.

#### **4. Develop Performance Work Statement or a Statement of Objectives**

In the previous three steps, the Integrated Solutions Team has determined the agency needs and conducted market research. Now, the Integrated Solutions Team has the knowledge and expertise to state the specification for service acquisition. There are two ways to develop a specification for a performance-based service acquisition. One of them is a performance work statement (PWS) and the other one is a statement of objectives (SOO).

##### ***a. Performance Work Statement (PWS)***

According to Compton (2010):

The performance work statement (PWS) describes contract work in terms of the required outcome or result. It does not describe the manner in which work is to be performed. A PWS is intended to allow vendors the freedom to be creative and innovative in determining how best to meet the government's objectives. The PWS process is discussed in most existing guides on performance-based acquisition. Among its key processes are the conduct of a job analysis and development of a performance work statement and quality assurance and surveillance plan. (p. 75)

The beginning of preparing the PWS starts with the analytical process, which is generally referred to as the job analysis. This is where we examine the agency's requirement and it tends to be a bottom-up assessment. Once we perform this task, it forms the basis for establishing performance requirements, developing performance standards, writing the PWS and producing the QASP. DoD uses another analytical process, which is described in detail in their PBSA Guidebook, wherein they define the



desired outcomes, conduct an outcome analysis, and conduct a performance analysis. In this step, the most important job of the Integrated Solutions Team is to develop certain information such as a description of the requirement in terms of results or outcomes, measurable performance standards and acceptable quality levels (AQLs). Once all the information is gathered, the IST should compile the information in the performance matrix, which will include desired outcomes, required services, performance standards, AQL, monitoring methods and Incentives/Disincentives. There is not a standard format for writing a PWS. The FAR only requires describing requirements in terms of results rather than the process, using measurable performance standards and QASP, providing for reductions of fees or price, and including performance incentives where appropriate. OFPP's guide says that the key elements of a PWS are the statement of the required services in terms of output, measurable performance standard for the output and an AQL or allowable error rate.

***b. Statement of Objectives (SOO)***

An alternative way to development of the PWS is to develop a statement of objectives. SOO is a more recent methodology that turns the acquisition process around and requires competing contractors to develop the performance work statement, performance metrics and measurement plan, and quality assurance plan" (Acquisition Central, 2006). FAR part 2.1 defines the statement of objective as follows: "Statement of Objectives (SOO) means a government-prepared document incorporated into the solicitation that states the overall performance objectives. It is used in solicitations when the government intends to provide the maximum flexibility to each offeror to propose an innovative approach.

The Department of Defense (1999) briefly described the SOO approach in the "Handbook Guidance for Acquisition of Training Data Products and Services." According to this Handbook,

The SOO is a Government prepared document incorporated into the RFP that states the overall RFP objectives. It is provided in the RFP instead of a Government written SOW. SOO can be used to provide the maximum flexibility to each Offeror to propose an innovative development approach to satisfy the objectives. Offerors use the RFP, product performance requirements, and SOO as a basis for preparing their proposals, which will include a SOW. SOO should provide the basic, top level objectives of the

acquisition. This approach provides potential offerors the flexibility to develop cost effective solutions and the opportunity to propose innovative alternatives meeting the stated objectives. It also presents the Government with an opportunity to assess the offeror's understanding of all aspects of the effort to be performed. (p. 2)

The content of the SOO is clearly stated in the FAR. FAR37.602(c) requires agencies to include, at minimum, the following elements in an SOO: Purpose, Scope or mission, Period and place of performance, Background, Performance objectives and Any operating constraints.

Compton (2010) found the following about the SOO:

When the government decides to ask proposing vendors to develop innovative solutions for its requirements, it develops and issues an SOO with the solicitation. A SOO is normally used when the government does not have enough information on the type of supplies and services it needs. SOO describes the desired results of the acquisition in terms of objective and how those objectives relate to the mission of the federal agency that developed it. The SOO is brief, so it does not fully describe the desired results. Then, based on the SOO, the proposing vendors must develop solutions for the government's objectives. Because the vendors are guided only by overall performance objectives, they are free to devise an innovative approach to meeting the needs of the government. In short, instead of the government describing in detail the work to be accomplished, the vendors propose detailed options and solutions. These options and solutions become the government's PWS. SOO may not be made a part of the contract. It must be removed from the solicitation and replaced with the PWS prepared by the winning vendor upon award of the contract. (p. 79)

## **5. Decide How to Measure and Manage Performance**

In most cases, the success of an acquisition is based on the management of the contract. To manage a contract successfully, some plan and measurement techniques are essential. The Seven Step Guide states that, "Developing an approach to measuring and managing performance is a complex process that requires consideration of many factors: performance standards and measurement techniques, performance management approach, incentives, and more. This component of performance-based acquisition is as important as developing the Statement of Work (SOW) or the Statement of Objectives (SOO), because this step establishes the strategy of managing the contract to achieve planned

performance objectives.” One of the most important tools to manage contractor performance is the Quality Assurance Plan. The Office of Federal Procurement Policy (1998) stated that, “The QAP defines what the government must do to ensure that the contractor has performed in accordance with the PWS performance standards. This can range from a one-time inspection of a product or service to periodic in-process inspections of on-going product or service delivery. It is needed to ensure the government receives the quality of services called for under the contract, and pays only for the acceptable level of services received. Since the QAP is intended to measure performance against standards in the PWS, these interdependent documents must be coordinated. Accordingly, writing the two documents simultaneously is both effective and efficient.”

McGregor and Jagers (2005) gave valuable information about QAP in their research project. Their findings are as follow:

Moreover, a QAP or QASP is a plan for which the Government QAE measures the contractor’s performance against the standards contained in the PWS. This plan should be clear, concise, and inform the contractor what surveillance methods will be employed in any resulting contract. The QASP should focus on the critical tasks contained in the PWS, which are measurable and attainable. It tells the contractor how they will be paid for services rendered to ensure the Government receives the services required. Consequently, the QASP provides the Government with an indication of what resources are needed to properly administer and assess the contractor’s performance. Even so, the contractor should not rely solely on the QASP to tell them how to perform any required services. In developing the QASP, the Government team should look at the PWS and decide which tasks are critical and worth measuring. It is better to choose fewer metrics which are meaningful and relevant than to select numerous or complex metrics. When selecting the metrics, the team should look at the metrics to ensure they are easy to collect. If not, they may not be achievable and are not worth being selected as a metric. To be achievable means the contractor will not require any assistance from Government personnel to provide the required services. (p. 15)

Compton (2010) stated,

When a solicitation uses a SOO, and the government wants vendors to develop the work performance standards and quality assurance plan, it must request this in the solicitation. In almost all cases, vendor's quality standards will meet the government's expectations. Using the SOO approach gives vendors the flexibility and freedom to develop performance standards and business practices. The vendors can also easily describe how their performance should be monitored and their work results evaluated. (p. 82)

## **6. Selecting the Right Contractor**

This step involves developing an acquisition strategy that will lead to selection of the right contractor who provides the best value for the desired service. One important factor in selecting the right contractor is to describe the problem that needs to be solved. The other important factor is that all the offerors have adequate information about the requirements and performance-based strategy. That is why communication with offerors is an important element of selecting the right contractor. The IST team has to understand every proposed solution to assess the associated risks and likelihood of success and do the best-value tradeoff analysis. According to the FAR, "Best value means the expected outcome of an acquisition that, in the government's estimation, provides the greatest overall benefit in response to the requirement." The Seven Steps to PBSA Guide's (2005) explanation of best value concept is that, "Best value is a process used to select the most advantageous offer by evaluating and comparing factors in addition to cost or price. It allows flexibility in selection through tradeoffs which the agency makes between the cost and non-cost evaluation factors with the intent of awarding to the contractor." The selected contractor may not provide the lowest price, but may offer a better solution to the government. When evaluating each proposal, the IST team must be aware that each offeror must understand the performance-based approach, know the agency's requirement, have a past performance history and have the processes and resources to support the mission and meet the requirements.

Source selecting process will be very important when government uses SOO instead of PWS. PWS is used when the government needs are well defined and the

required services have been clearly determined. If government uses PWS it means that the government determines its requirements and outcomes, defines the tasks to be accomplished and develops standards. Based on these, the government can easily evaluate the proposals and determine which one provides best value. The government uses SOO when commercial industry has expertise in providing the service or the government does not have expertise in the required service area. When using a SOO, the Offeror, not the government, will write the PWS. A SOO provides the maximum flexibility to each Offeror to propose an innovative development approach in their unique and self-created PWS. The Integrated Solution Team must evaluate all proposed Performance Work Statements to determine acceptability and compatibility. It is important to evaluate all factors in a detailed manner that needs more time and skilled contracting personnel. That is why selecting the right contractor is more difficult and time consuming when government uses SOO instead of PWS.

A contractor's past performance record is the key indicator for predicting future performance. Past performance records are very useful to evaluate and select the proposal that provides best value. As stated in the Seven Steps to PBSA Guide (2005): "Evaluation of past performance is particularly important for service contracts. Properly conducted, the collection and use of such information provides significant benefits. It enhances the government's ability to predict both the performance quality and customer satisfaction. It also provides a powerful incentive for current contractors to maximize performance and customer satisfaction." In summary, developing a successful acquisition strategy is necessary to solve many potential problems at the beginning. A successful acquisition strategy involves describing the problem, clear communication with offerors, evaluating past performance and making a best-value source selection decision.

## **7. Manage the Contractor's Performance**

As stated in GAO's (2006) report, service acquisition differs from product acquisition in several aspects and needs close and detailed control of contractor performance. The success of the acquisition is largely based on the management of the contract. Contract management is vital because government's agencies rely on the private

sector to achieve their goals. If they do not get the right service at the right time and the right place they will not function properly. That is why agencies should allocate sufficient resources to ensure the contractor performs in accordance with PWS.

The role of the Integrated Solution Team does not end with the award of a contract. Team members' involvement throughout contract implementation and closeout is critical to ensure that contracted services are delivered according to the schedule, cost, quality, and quantity specified in the contract. They have to ensure that the contract performance is consistent with the description and scope of the contract (Walker, 2008, p. 9).

At this stage, a properly trained workforce in sufficient numbers is critical to monitor contractor performance effectively. If monitoring is not conducted sufficiently, the agency cannot identify and correct poor contractor performance in a timely manner. The contractor's performance assessment is done by the quality assurance evaluator (QAE), contracting officer's representative (COR), or contracting officer's technical representative (COTR). These have different names but their duties are generally the same. They assess contractor performance against contract performance standards on the site. All these personnel are responsible for knowing the current, most efficient and effective performance assessment methods and techniques. In most cases, contracting officer's representative (COR) is responsible for doing contractor's performance assessment. To fulfill this responsibility COR should be qualified and should maintain accurate documentation and a clear communication with the contractors. (Maddox, 1999, p. 9-2)

Mutual trust and clear communication are also critical to make the contract work. Without trust and clear communication, innovation and improvements in the service will not happen. The members of the Integrated Solution Team should know the terms and conditions of the contract, the PWS, their responsibilities and authorities to avoid any unauthorized actions and to be sure that the Contractor's performance conforms to the terms and conditions of the contract, the PWS.

### **C. BENEFITS OF PERFORMANCE-BASED SERVICE ACQUISITION**

The aim of the service acquisition is to obtain the right service, at the right price, in the right way and from the right supplier. This point is very important today, as the federal government outsources more goods and service to carry out its operations. There are different methods to reach this goal. The Performance-Based Service Acquisition is not a perfect solution but is a preferred acquisition method when getting service in the federal acquisition environment. It has been used for more than twenty years and mandated for federal service acquisition. Naturally, as with every system or process, it has benefits and challenges. In some cases, it is a convenient tool to get best value for taxpayer money. But in some cases it is too difficult to implement this acquisition concept.

Scholars have noted that there are many other reasons that federal government agencies use PBSA, with its benefits and better solution. The Office of Federal Procurement Policy (1998) study on performance-based contracts for service acquisition showed that benefits including reduced acquisition cost, increased competition for contracts and improved contractors performance had been achieved. One important benefit of PBSA is to enable government to pay contractors based on outcomes and performance rather than the process used to deliver services. It ensures that taxpayers are receiving the best value and contractors are paying for what they performed. Another benefit of the PBSA is allowing greater competition to produce better solutions. PBSA allows contractors to offer their solution and performance measurements. Contractors prepare their solutions by taking into consideration governments' requirements, price and competitive market forces. Contractors seek the best solution that meets the requirements at the lowest cost. Mather and Nelson (2006) stated that government can get good competition, reasonable price, better technical expertise and good QASP from serious and experienced offerors.

PBSA offers some contract administration benefits by reducing government efforts by focusing on results rather than daily work process. PBSA requires fewer day-to-day administrative activities and reporting requirements. These also lead to reduced administrative cost and overhead. Rosenberger (2003) stated that PBSA frees up the

government acquisition workforce engaged in administration of the contract and enables them to monitor the outcomes of the contract rather than the process.

PBSA allows contractors the freedom to offer the most effective solution to government needs. This encourages contractors to be innovative and find cost effective ways of delivering services. In this concept, and in contrast to traditional service acquisition, the government does not force the contractors to use government dictated solution, thus allowing them more opportunity to operate without government interference. According to Rosenberger (2003), PBSA liberates the contractor as the sole decision maker and expert to manage resources more effectively. Jennings and Jackson (2002) stated that the contract's "how-to" is left to contractors to employ new and effective solutions. PBSA gives freedom to determine how best to meet the government's requirements, allowing the government to take advantage of the industry's experience and knowledge. The U.S. House of Representatives, Committee on Homeland Security (2008) pointed out:

Performance-Based Contracting allows the government to issue contract without specifying what services it wants to buy. Instead, the government can issue a statement describing the problem it wants to solve and have the private sector propose a solution. This approach can provide the needed flexibility to promote innovation by business. (p. 1)

Risks such as cost overruns, schedule delays, not meeting performance expectations and unacceptable quality are inevitable for every services acquisition. That is why government authorities try to find solutions to eliminate or reduce these risks. One of the tools the government acquisition workforce uses to reduce risk is PBSA. As stated in the GAO (2008) report, an appropriately planned and structured performance-based acquisition minimizes the risk of government receiving services that are over cost, delivered late and of poor quality. PBSA transfers this risk from government to contractor. In this acquisition concept, contractors do not have to use a government solution dictated in a SOW. They come with their own solution and bear the risk. Furthermore, and as with the risks of cost overruns, late delivery is better controlled. The United States Department of Defense (2000) also indicated that much of the risk is transferred to contractors, because contractors become responsible for delivering the end



results stated in the SOW by using their best practices and processes. This procurement concept does not eliminate the government responsibility for defining and determining the requirements. The defining requirement is the first step in the procurement process and government should give proper attention to this process. At the beginning of the procurement the government procurement professional should specify the required service, estimate the duration of service and emphasize desired results. All these efforts will help the government to obtain the best possible services and maximize the outcome.

In summary, when properly structured, PBSA allows government to reduce cost and increase service quality. PBSA offers the federal government significant gain in cost savings, contractor responsibility, and better performance, while also reducing quality shortcomings and customer satisfaction. FCS Group (2005) identified more benefits in its literature search. The followings are the expectations and benefits of PBSA:

- Encourages and promotes contractors to be innovative and find cost effective ways of delivering services
- Gives the contractors more flexibility in general to achieve desired results
- Shifts risk to contractors so they are responsible for achieving the objectives
- Maximizes competitions and innovation
- Results in better prices and performance
- Expects contractors to control costs and achieves cost savings
- Encourages contractors and government to work together to provide the best service to customer
- Eliminates day-to-day monitoring
- Allows government workforce to focus on outcomes of the contract

#### **D. CHALLENGES OF PERFORMANCE-BASED SERVICE ACQUISITION**

Performance-Based Service Acquisition is an approach that focuses on results rather than dictating the manner in which the desired work is to be done. This approach has been used over the last twenty years across the United States government; service acquisition now represents more than 60% of contract spending for the federal government. Since PBSA was initiated, the federal government has been trying to increase the use of PBSA by setting targets. The government also provided training and

support to the acquisitions workforce on how to implement this new acquisition concept. OFFP has developed “Seven Steps To Performance-Based Service Acquisition,” which provides a road map, breaking the whole process down into logical steps. The Seven Steps Guide tries to make the concepts of PBSA accessible and logical for the acquisition workforce. In addition, other guidance and technical support have been provided to the government agencies to promote the use of this acquisition concept effectively. Almost every department of the federal government issued its policy guidance and manuals to show the implementation of PBSA.

Although more than twenty years have passed and lots of training support has been provided, General Accounting Office reports and OFFP studies show us that there are implementation problems, challenges and unsatisfactory performance results from PBSA. These problems and challenges identified in reports and articles not only affect the government side but also deeply affect the contractors and industry. These challenges and implementation problems affects the government’s ability to get best value for the taxpayer dollars spent and improve the process and results. Unsuccessful implementations also prevent government from benefiting from the creativity and innovation of private industry. The federal government’s rules and regulation for this acquisition are very clear. The methodology and guidance are provided to the acquisition workforce on how to implement PBSA. As GAO (2008) stated, despite its government-wide acceptance, concerns have been raised over how well agencies are using the performance-based approach. For more than twenty years, agencies have been encouraged to use PBSA but the government has not reached the intended level of progress. There are many reasons for this slow progress and unsuccessful results.

Lack of Skilled Acquisition Workforce: As we know, the success of the every system and organization is based on the human factor. If the workforce is skilled and educated in their profession, the organization can easily get the intended result in its activity. A skilled acquisition workforce is vital for success in federal acquisition. One of the reasons for poor PBSA results is lack of trained and experienced personnel in the agencies. In its report, the GAO (2007) stated that DoD is challenged in its ability to maintain workforce with the requisite knowledge of the technical details of the services

they procure and the ability to prepare clear statements of work and measurable performance standards. GAO (2008) shows us there is inadequate understanding among agencies on when and how to successfully carry out PBSA. There is an uncertainty on when and how to use this performance-based acquisition concept when obtaining services from the private sector in the federal acquisition environment.

Poor Requirements Definition: Performance-Based Acquisition clearly spells out the desired results from the contract at the beginning of the acquisition process. It is very important to identify specific results that lead to targeted solutions. That is why the acquisition workforce has to know their desired outcomes and define performance requirements in terms of schedule, quality and quantity. According to the GAO (2008) report, requirements definition and performance standards influence outcomes for PBSA. Lack of well-defined requirements hinders the ability to hold contractors accountable for poor performance. Clearly defined requirements and measurable performance standards are critical to ensure control and accountability. But as GAO (2009) stated, agencies have difficulties defining requirement and outcome-based measures when acquiring services. Poor definition of requirement leads to poor performance, schedule delays, cost overruns and expectations. Poorly defined or unstable requirements lead to cost increases as well as poor customer satisfaction. Poor acquisition planning also increases the risk of the government receiving services that are over cost estimates, delivered late and of unacceptable quality.

Lack of Acquisition Team: Lack of an acquisition team or a poorly designed acquisition team are other reasons that make PBSA unsuccessful. To get the best value from any acquisitions, an acquisition team is essential. PBSA is not an exception to this rule, but its success highly depends on close coordination of the different areas of expertise. An acquisition team enhances government's ability to form a quite complete acquisition strategy that deals with all aspects of the requirements. As Garrett (2007) stated, "Performance-Based Contracting is a collective responsibility that involves representatives from budget, technical, contracting, logistic, legal and program office." In addition, recent policies and regulations have changed the acquisition process dramatically from process focused to results focused and mission focused. This new

acquisition environment forces agencies to form an acquisition team with a designated team leader to deal with its challenges. PBSA requires representatives with varied knowledge and skills to determine all aspect of the acquisition. It requires a team effort from different functional specialists to develop acquisition strategies, conduct market research, establish statements of objectives and measure the performance. Some services contracts GAO reviewed indicate that lack of collaboration between representatives from different areas of specialty is a challenge when developing and managing complex services acquisition (GAO, 2008, p. 1).

Resistance to Change: In every organization, it is very difficult to deal with change. Everybody tends to do his/her job as before and resists any change. Most of the employees fear change that leads to a shift from the current situation to new and unfamiliar ones. This fact is more common in the government environment than in the private sector. This is because government is more bureaucratic, closed to innovations and needs more time to adapt itself to new conditions. This new acquisition approach also is more challenging for industry. They have to bear the risk and find innovative solutions to offer government. It is difficult to change people's routine practices. That is why PBSA requires cultural transformations in both government and industry. In her testimony before the Committee on Homeland Security, Reed (2008) clearly explained this situation:

PBA creates an opportunity for cultural transformation, to focus on results. Making the shift to focus on outcomes versus specified tasks or levels of effort requires a transformation in culture, perspective, and thinking. Without training and other support for implementing PBA techniques, many government acquisition professionals still follow a procurement process that first requires the development of a detailed statement of work or a specification that prescribes how the contractor should perform the work and then rely on monitoring compliance with that specification to manage execution. Many who take on this task believe a "tight spec is a good spec," that the contractor must be told exactly what to do, how to do it, what labor categories to provide, what minimum qualifications to meet, and how many hours to work. But what if the contractor follows the government's instructions to the letter and the result is still unacceptable? It is the government's tightly specified "solution" that is at fault, not the contractor's performance. The government and, ultimately, the public bear the risk and consequences of failure. (p. 26)

As a new acquisition method, PBSA is difficult for both parties. It calls for a new understanding of acquisition from both government and industry. Government and contractors should think clearly about the requirements to be accomplished and how to measure contractors' performance. Both government and contractors should have clear sense of the contractors' responsibilities. This is a different way of doing business for both government and industry. That is why clear communication, close coordination and mutual trust are critical to overcome the challenges of the new acquisition environment.

Lack of Contract Administration: Another challenge of PBSA is management and assessment of contractor performance. There is a misunderstanding about post-award issues. Some acquisition personnel think that the contract award is an end but this perception is totally wrong, especially for the PBSA. Indeed, it is the beginning of the challenging step in which desired outcome is obtained and it demands specialized skills and resources. The most important process for performance-based acquisition is managing contractors' performance. As stated in the GAO (2006) report, Service acquisition differs from product in several aspects and needs close and detailed control of contractor performance. The success of the acquisition is largely based on the management of contract. In this matter, Cavadias (2005) stated that "The success of a PBSA is highly dependent on the effort and resources invested in monitoring performance by using many sophisticated tools and metrics including performance indicators and standards, and quality assurance surveillance plans" (p. 327).

In PBSA, the contractor's performance should be managed and assessed adequately to ensure that proper action is taken under the contract. If proper oversight is not conducted, agencies are at risk of paying for poor performance. That is why oversight of PBSA requires more oversight and a skilled and experienced workforce than the other acquisition concepts.

Increase in Complicated and Complex Services: Service acquisitions are growing larger and becoming more complicated in the federal government, and especially in the DoD, every day. As previously mentioned, over the last decade the use of federal service acquisitions has increased and now is 60 percent of federal procurements. With growing use of service acquisition, the variety of services also increases and this trend makes

PBSA more complicated and challenging. For example, DoD's service acquisitions range from basic services to those that are more complex. Food service and landscaping are easy but we cannot say the same thing for intelligence analysis, security services and research and development services. Edwards and Ralph (2006) proposed that there are two different types of services. One of them is simple service acquisition, which is common, routine, short-term and repetitive. It is easy to define and acquire these kinds of services. They are well suited to PBSA. On the other hand, the second category includes more complex and long-term services such as information technology service. A GAO (2008) report found that, "implementing a performance-based approach is often more difficult for complex acquisition because agencies begin with requirements that are less stable, making it difficult to establish measurable outcomes" (p. 7).

According to the Edwards and Ralph (2006), PBSA is not a practical approach to buying long-term and complex services because it is unrealistic to ask agencies to define requirements that are not yet fully known and understood (p. 355). They clearly explained their reasoning:

It is unrealistic to ask agencies to specify services at the time of contract award in clear, specific, objective, and measurable terms when future needs are not fully known or understood, requirements and priorities are expected to change during performance, and the circumstances and conditions of performance are not reliably foreseeable. Yet those are the difficulties faced by agencies and their contractors when they negotiate long-term and complex service contracts.

In real life, parties to long-term and complex service contracts do not specify all requirements at the time of contract award in clear, specific, objective, and measurable terms. Instead, they engage in ad hoc decision making in response to emerging and changing requirements, shifting priorities, and unexpected circumstances. They make it up as they go along, developing and adjusting expectations and agreements accordingly. Reality is never the same as expectations and projections, and plans and agreements go awry. No matter how long and hard future needs are considered, contracts will include things that will not be needed and leave out things that will be. Specifications and expectations must be adjusted over the course of time. Thus, in requiring that agencies fully specify results at the outset of contracting, PBSA often requires them to do

something that is too hard to do and sets them up to fail. More training will not make PBSA appropriate for long-term and complex service acquisitions. (p. 355)

As Mather and Nelson (2006) stated, performance-based service acquisition focuses on the outcome and end product. But it is very critical to evaluate every phase of software development services. As the literature shows, PBSA is well suited to those simple and routine service acquisitions that are well defined, but it is difficult and challenging when procuring complex and long-term services that cannot be defined clearly at the outset of acquisition.

FCS Group's (2005) study, "Best Practices and Trends in Performance Based Contracting," is one of the articles that raised concerns related to PBSA and identified a variety of issues and problems when agencies use this acquisition concept. The following are the important problems and challenges:

- Poor requirements and definition of performance measures
- Lack of skilled and trained acquisition workforce
- Lack of coordination between agencies' departments and experts
- Inadequate oversight of contract
- Misunderstanding that PBSA takes more time than traditional methods
- Difficulties of giving up old habits
- The fear of change and resistance against new acquisition approach
- The perception that performance measures are difficult to understand and complicated to implement
- Trying to implement all kinds of service acquisitions
- The shift of emphasis from process to outputs
- Lack of knowledge about performance-based acquisition
- Lack of communication between contractors and government

## **E. SUMMARY**

The aim of service acquisition is to obtain the right service, at the right price, in the right way and from the right supplier. The solution provided by the service procurement should satisfy the customer needs. To achieve this at the beginning of every

acquisition process, the agencies' requirements should be well defined and stated by the agency itself. After that point, the success of a performance-based service contract rests heavily on post-award monitoring and management. The contract management process is very critical to obtain best value from the service procurement. This challenging stage requires a skilled and trained contracting workforce to closely monitor the contractor performance. The acquisition workforce should operate as a team with a designated team leader to overcome the challenges of this new concept. It is essential that all stakeholders be involved throughout the service acquisition life cycle, from the requirements determination phase through contract closeout. The team should be multi-functional to plan and manage service contracts throughout the life of the requirement. The expertise and contributions of each team member are important to the success of a service acquisition.

PBSC is the preferred contracting method and mandated by regulations when procuring services in the U.S., but is not a perfect solution for every service type. Naturally, as a system or process it has some advantages and some difficulties. Although PBSC helps the government side to save money and increase quality, it is difficult to use this procurement concept for the complex services that are not well defined at the early stage of procurement. Unlike the traditional procurement methods, PBSC requires cultural changes and more training. This training and cultural transformation needs time and will be gradual. It is clear that moving to performance-based service contracting may take time, since a major shift in government procurement process and contracts administration is not going to happen immediately.

To this point, the implementation of PBSC has been analyzed, its benefits and its shortfalls. It can be said that this procurement concept has more benefits than its challenges. It has been used successfully in the U.S. has been mandated by the federal government. But to determine its applicability to Turkey it needs to examine current Turkish rules and regulations. The following chapter focuses on the current public procurement process in Turkey, after which it becomes easy to determine if there is any barrier to implementing PBSC in Turkey.



## **IV. ANALYSIS OF THE CURRENT ACQUISITION ENVIRONMENT IN THE TURKISH MINISTRY OF DEFENSE**

### **A. INTRODUCTION**

The world we live in is becoming smaller with the help of information technology. Anyone in the world can easily access the information available in cyberspace. In this information era, sometimes even a secret document can be leaked and released to the public. All of the actions taken by the government are under strict control of the public and media. Newspaper and television focus on government activities. All these things are true for the defense departments of the most countries. These departments seek ways to operate fully within the limited budget and resources. Day by day, public pressure on defense budgets is increasing and leads to significant defense budget cuts. Defense policy makers are trying to do more with less funding. Budget cuts in defense spending force defense authorities to give importance to efficiency and innovation. For that reason, PBSC was developed in the United States. The emphasis is on performance of the government agencies when spending public resources. The goal is the best value returned for every dollar spent.

As every change in the world affects Turkey directly, changes in public procurement policy in the world and the U.S. also affect it indirectly. The Turkey Ministry of Defense (MOD) also faces significant budget cuts and its actions and spending are under public focus. For that reason, the MOD should find better operating solutions. It has to focus on performance of the departments and spend its limited budget wisely. In the future, MOD may face more budget cuts and public pressure about its performance. It is time for MOD to find innovation in its spending to overcome the effects of adverse budget cuts. This research has examined PBSC as just such an innovation.

This chapter focuses on the current Turkish MOD service acquisition environment and determines which service is used by MOD and any barriers or policies that prevent use of PBSC. It also discusses the current service acquisition process and regulation governing the service procurement in detail.

## **B. MOD CURRENT SERVICE ACQUISITIONS ACTIVITIES**

### **1. Background**

Procuring service from the private sector has received great emphasis in the world defense environment, especially in DoD. Today, approximately 60% of the DoD budget is spent for services acquisition. But this percentage is much smaller in Turkey. For example, for fiscal year 2009, 49.2% of the total MOD budget was planned for procuring good and services. The main reason of limited service acquisition in MOD is perception that some of the services are part of the military function. For example, for many years food service was seen as a function that must be carried out by military. To provide food services to the troops, every military installation or base must have a kitchen and adequate personnel to cook and serve. As you can guess it is not possible to find enough resources to provide this kind of services professionally. Another reason was lack of sufficient commercial market to provide services needed by MOD, but recently with the growing Turkish economy it easy to procure every kind of services professionally.

As compared with DoD service acquisition, Turkey MOD service acquisition is small and limited, but day by day MOD is seeking commercial market solutions in order to free up more soldiers for potential combat duties. The war-fighting capability is very important for Turkey because Turkey is located at the center of the Balkans, Caucasus and the Middle East, where the threats and risks are concentrated. This situation, stemming from Turkey's geostrategic location, has not changed and will not change in the future. That is why Turkey should maintain a military force that will provide a deterrent influence on instability and uncertainty surrounding itself. Turkey's Armed Forces are currently the second largest military in NATO and the second most technologically advanced military in the Middle East. The massive conscript armies have lost their importance in the western world since maintaining such personnel-heavy military forces is costly and not effective to protect the country. Because of that, Turkish Defense Authorities are looking for ways to develop a smaller, deployable and more professional military force in the same way its European and North American allies have already done. Pursuit of a professional armed force encourages MOD to give up some services carried out by soldiers and procure them from the private sector. Acquisition of some

services from the private sector allows MOD to focus on its main activities and functions such as military training and exercises. Another reason for MOD to procure services from the private sector is to benefit commercial market business practices. Today, the budget of MOD is limited and under strict controls of government and public. As shown in Table 1 and Figure 2, MOD budgets have been cut every year since 1998.

Table 2. Turkey Defense Budget 1998–2008

YEARS	GDP	NATIONAL	MOD	MOD	MOD BUDGET
1998	53,518,332.00	14,789,475.00	1,390,263.00	2.6%	9.4%
1999	78,282,967.00	27,266,600.00	2,507,010.00	3.2%	9.2%
2000	125,596,129.00	46,827,436.00	4,136,500.00	3.3%	8.8%
2001	176,483,953.00	79,159,490.00	5,376,585.00	3.0%	6.8%
2002	275,032,366.00	98,131,000.00	8,234,969.00	3.0%	8.4%
2003	356,680,888.00	147,230,170.00	10,209,250.00	2.9%	6.9%
2004	428,932,343.00	149,945,082.00	10,011,847.00	2.3%	6.7%
2005	485,058,000.00	156,088,874.00	10,977,067.00	2.3%	7.0%
2006	575,784,000.00	174,958,101.00	11,877,533.00	2.1%	6.8%
2007	646,893,000.00	204,902,263.00	13,052,393.00	2.0%	6.4%
2008	716,596,000.00	222,553,217.00	13,272,707.00	1.9%	6.0%

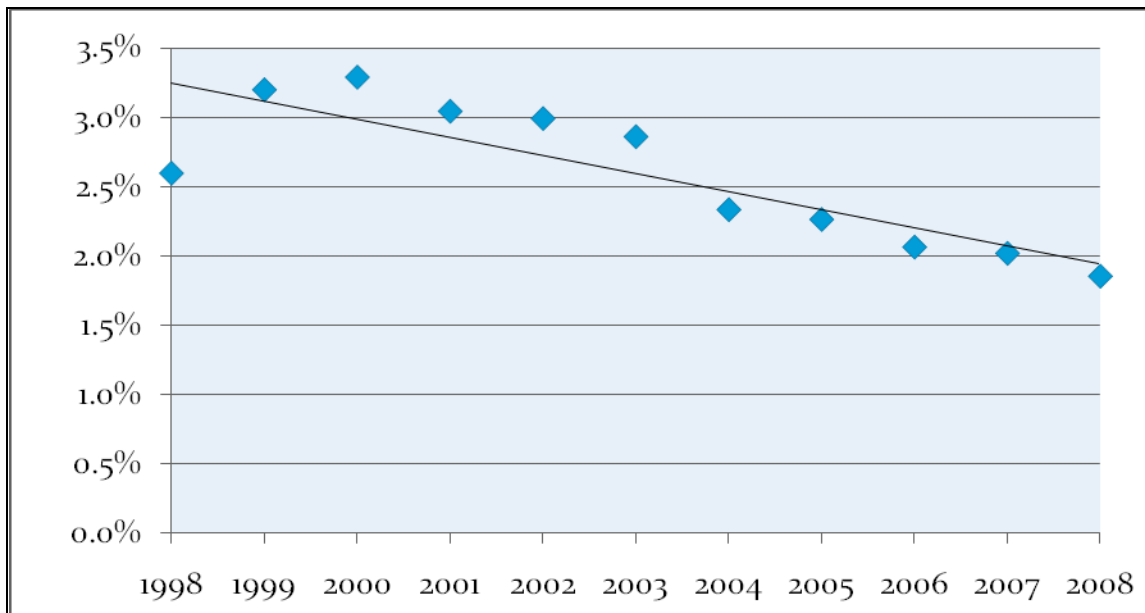


Figure 2. Turkey Defense Budget In GDP Trends 1998–2008

That is why MOD is trying to find ways to get the best solution for its service requirements. MOD's main goal is to acquire goods and services in accordance with law, cost, schedule, and quality. MOD is procuring some services simply to reduce costs, increase quality and efficiency when reducing the workforce.

Most government departments procure service, which creates opportunities for government work for the private sector. But the Ministry of Defense does not use a wide range of services. Outsourcing is used only when procuring food, transportation and cleaning facilities services.

## **2. Food Services**

In Turkey, as stated in Article 72 of the constitution, "National service is the right and duty of every male Turkish citizen. The manner in which this service shall be performed, or considered as performed, either in the armed forces or in the public service, shall be regulated by law." Based on the constitution, all male citizens who pass a physical examination are obligated to perform active-duty service for fifteen months. During military services, all soldiers except officers and NCOs must be fed by the government. All their basic needs are provided by the Turkish Government. This rule also covers all military staff including officers and NCOs in a war or exercises. That is why every military base, installation and training center has kitchen facilities and required staff to feed soldiers and military students. This was not a cost effective way to get services so some military centers such as Army War College, Military School and Military Hospitals stopped providing food service to their staff and began to outsource from commercial catering firms. Although they faced some challenges, this practice continues in the MOD environment. But it is difficult to determine whether the government gets best performance or not. Other military elements such as brigades and divisions provide food services by keeping kitchens open since they are scattered all over the country and could find responsive contractors.

## **3. Personnel Transportation Services**

The MOD provides shuttle service to all officers, NCOs and civilian workers when they are coming and leaving base. Previously, this service was provided by military

vehicles and buses but recently all of MOD elements outsource this service from commercial firms. In the recent past, every military base had to maintain shuttles or buses to carry its personnel. These vehicles required significant operating and maintenance cost, and in addition were not as comfortable as service provided by civilian firms. In the MOD environment almost every base requires transportation services from commercial firms especially in big crowded cities like Istanbul and Ankara. Only a few bases provide these services using their vehicles just because of security concerns.

#### **4. Cleaning Services**

Normally, military base cleaning services are provided by soldiers (privates). Military schools and training centers have civilian workers to clean their installations. In MOD environment commercial firms are only used to clean military hospitals because keeping hospitals clean and hygienic is important in terms of healthcare. These service requirements cannot be met by military resources and should be outsourced from professional commercial firms.

### **C. CURRENT TURKISH SERVICES ACQUISITION RULES AND REGULATIONS**

#### **1. Overview**

There are two important and main laws that govern the public acquisition process in Turkey. These are Turkish Public Procurement Law (No: 4734) and Public Procurement Contracts Law (No: 4735), both of which were enacted in 2002 by the Turkish Parliament. These two laws were enacted to adjust Turkish acquisition procedures to the European Union regulations. The purpose of Turkish Public Procurement Law is to establish the principles and procedures to be applied in procurements held by all public entities and institutions governed by public law or under public control or using public funds. The purpose of Public Procurement Contract is to establish the principles and procedures that pertain to making and implementing public procurement contracts under Public Procurement Law. Also, the Turkish Ministry of Finance issued Regulation on Implementation of Services Procurements to explained how

to procure services from private sectors in accordance with Turkish Public Procurement Law (No: 4734) and Public Procurement Contracts Law (No: 4735).

Turkish Public Procurement Law (No: 4734) clearly explains and defines Service in Article 4 as follows:

Services: (Amendment: 4964/Article 3) relating to maintenance and repair, transportation, communication, insurance, research and development, accounting, market surveys and polls, consultancy, architecture and engineering, surveying and project, map and cadastre, development application, development plan in any scale, promoting, broadcasting and publication, cleaning, catering, meeting, organization, exhibition, guarding and security, professional training, photography, film, intellectual and fine arts, computer systems and software services, lease of movable and immovable properties and the rights thereof, and other similar services.

We understood from this definition that Turkish Public Procurement Law (No: 4734) allows government departments to procure a wide range of services. But as stated before, in the MOD environment just a few of them are commonly used. There are some basic rules the government departments have to obey. These basic rules, found in Article 5 of the Turkish Public Procurement Law (No: 4734) are:

- In tenders to be conducted in accordance with this Law, the contracting entities are liable for ensuring transparency, competition, equal treatment; reliability, confidentiality, public supervision, and procurement of needs are being carried out under appropriate conditions and in a timely manner, and for the efficient use of resources.
- Unless there is a natural and justifiable connection between them, purchase of goods, services and works cannot be consolidated in the same procurement.
- Goods, services or works to be procured cannot be divided into lots with the intention of avoiding threshold values.
- For the procurements to be held in accordance with this Law, the principal procurement methods are open and restricted procedures. The other methods may be used under the special conditions set out in the Law.
- The procurement proceedings shall not be initiated unless there is a sufficient budget allocation.

- In accordance with the related legislation, for the works requiring an Environmental Impact Assessment (EIA) Report, a positive EIA report must be obtained before the initiation of procurement proceedings. However, in works procurements to be made urgently due to natural disasters, EIA report shall not be required.

## **2. Current Implementation of Service Acquisition**

The service acquisition process begins when the department determines their requirements. After determining requirements all the contracting works are carried out by the logistician, Tender Commission and Finance branch. In this process, most jobs are done by logisticians who define technical and administrative specifications of the required services. The logistician prepares an acquisition file that includes approval of acquisition, Administrative Specifications Document, Technical Specification Document, Cost Estimation, Market Research and Determination of the Contracting Method. After completion of the acquisition file, the logistician sends it to the Tender Commission. All activities carried out in the service acquisition process are as following:

### ***a. Determination of Requirement's Specifications***

As soon as a requirement is requested by the military units or elements, the logistician checks the sufficient budget allocation by coordinating with the finance branch. If there is sufficient funding, the finance branch approves the acquisition process and the logistics branch begins to prepare the acquisition file, which includes all related documents. One of the documents is the Administrative Specifications Document, which defines procurement objectives, bid participations requirements, evaluation criteria and awarding processes. The other document is the Technical Specification Document, which indicates the technical details and requirements of the services to be procured. This document cannot contain the matters hindering competition, and should provide equal opportunity for all tenderers. The Logistics branch benefits from industry and MOD Technical Specifications prepared in advance when preparing this document. In the Technical Specification Document, services requested are defined in detail by logistics branch personnel. This document shows contractors how to perform the work requested. Turkish rules and regulation does not allow industry to propose solutions.

***b. Cost Estimation***

The Logistics Branch is responsible for making cost estimation and preparing the Cost Estimation Calculation Statement. The branch has to prepare this statement and supporting documents and annexes to the acquisition file before getting approval of the unit commander. In determination of estimated cost, the logistics branch can benefit from the public authorities and institutions according to the nature of services and can use prices and rates in identical or similar services realized by the contracting entity or other administrations. The estimated cost ascertained by the contracting entities before the procurement shall not be announced and released to the tenderers or other persons who do not have an official relation with the procurement process.

***c. Determination of Applicable Procurement Procedure***

Determination of Applicable Procurement Procedure is made by the Logistics Branch. According to the Turkish Public Procurement Law (No: 4734) Article 8, there are three kinds of procedures the Logistic Branch can use. These are

1) Open procedure. In the open procedure, all the vendors and service providers who are willing to participate in the bidding can submit their proposal. There are no restrictions to prevent vendors' participation in the bidding. To propose an offer, all tenderers should have required certificates and documents stated in Administrative Specifications Document.

2) Restricted procedure. Restricted procedure is a procedure in which tenderers, who are invited following pre-qualification by the contracting entity, can submit their offer. Procurement of services may be conducted by restricted procedure where open procedure is not applicable due to the complexity of the requirement that needs expertise and advanced technology.

3) Negotiated procedure. The services procurements may be held through the negotiated procedure in the following cases:

- If there is not any tender submitted as a result of procurement held through the open or restricted procedure



- If it is compulsory to hold the procurement urgently when instantaneous and unexpected cases or the events that cannot be anticipated by the contracting entity such as the natural disasters, epidemic diseases, risk of deaths or loss of properties arise
- If it is compulsory to hold the procurement urgently when the special cases arise concerning the defense and security
- If the procurement requires research and development process and is not subject to the serial production
- If the technical and financial properties of the services, which constitute the subject matter of the procurement, cannot be defined as clearly as required since the said services are exclusive and complicated
- The services procurements of the contracting entities with an estimated cost up to the amount set forth in paragraph (f) of Article 21 of Law No: 4734.

In negotiated procurement procedure, negotiations are carried out with the tenderers who meet qualifications stated in the Administrative Specifications Document. The tender commission, similar to the Source Selection Board in the U.S., negotiates with each tenderer and evaluates their technical capabilities and expertise. After evaluation, the tenderers who have sufficient technical capacity and capability are asked to submit final proposals, and the contract is awarded to the Offeror who proposes the lowest price. If the number of tenderers submitting tenders is less than three, then the procurement process is cancelled.

#### *d. Advertisement of Procurement (Solicitation)*

The Logistics Branch sends the Acquisition File to the Tender Commission as soon as they finish preparation. After that point, the procurement process will be carried out by the Tender Commission that consists of at least five members and in odd numbers, including one chairperson, at least four personnel of the related contracting entity (Command, Military Base), provided that two of them are experts on the subject matter of the requirements, a financial officer in cases of general budget and annexed budget entities, and in case of other entities a person responsible for accounting and finance, together with its substitute members. All public procurement shall be advertised locally or nationwide according to the Threshold Values that are determined at the beginning of every fiscal year. The Tender Commission is responsible for advertising

all procurement. The advertisement shall include the following information: name, telephone number and address of the Tender Commission; types and quantities of the required services; start and closeout dates of the contract; bidding date and place; contracting method; the documents and certificates needed for the qualification evaluation; qualification evaluation criteria; and the place to see or buy the tender document.

The Tender Commission has to give all tenderers sufficient time to prepare their offer. The time given is based on procurement procedure and Threshold Values. Procurement with estimated costs equal to or exceeding the threshold values stated in Article 8 shall be advertised by publishing in the Official Gazette, at least once; if open procedure is conducted the procurement shall be published not less than forty days prior to deadline for the submission of tenders. If restricted procedure is conducted, pre-qualification notices of procurements shall be published not less than fourteen days in advance of the deadline for the application to pre-qualification and if negotiated procedure is conducted notices inviting candidates shall be published not less than twenty-five days prior to the deadline for the submission of tenders.

For procurements with estimated costs below the threshold values given in Article 8, the notices of procurements to be conducted for the procurement of goods or services shall be published at least once in not less than two newspapers being issued where the procurement is to be held and the work is to be performed, a minimum of seven days in advance of the deadline for the submission of tenders or shall be published at least once in the Official Gazette and in one of the newspapers being issued where the work is to be performed minimum fourteen days in advance of the deadline for the submission of tenders or shall be published at least once in the Official Gazette and in one of the newspapers being issued where the work is to be performed minimum twenty-one days in advance of the deadline for the submission of tenders. This time frame determination is based on threshold values.

*e. Evaluation of Offer and Contract Award*

The Offeror shall submit their proposal in writing and signed. The proposal shall be submitted to the contracting entity no later than the date and hour specified in the advertisement. The number of offers submitted shall be recorded in the minutes by the Tender Commission and announced to those who are present, and then the Tender Commission shall examine the tender envelopes in the order of submission. Envelopes that are not in compliance with paragraph 1 of Article 30 shall be recorded in the minutes and shall not be included in the evaluation stage. The envelopes shall be opened in the presence of tenderers and those who are present, in the order of submission. It shall be checked if the documents of the offerors are complete or incomplete. Offers with incomplete documents or improperly prepared shall be recorded in the minutes. The offerors and their prices shall be announced. The minutes relating to these proceedings shall be signed by the Tender Commission. At this stage, no decision shall be made with regard to rejection or acceptance of any of the offerors, and the documents consisting of the offer cannot be corrected or completed. The session shall be closed for immediate evaluation of the offer by the Tender Commission.

The Tender Commission shall exclude the offers that are incomplete or are not in compliance with the requirements stated in the advertisement and Administrative Specification Document. After that point, offers that are complete and appropriate shall be held subject to a detailed evaluation. At this stage, the offerors shall be examined for their conformity with the qualification criteria determining the capacity of the offeror to perform the contract. Any offerors that are found ineligible shall be disqualified.

At the final stage, the price charts annexed to the offer shall be checked for any arithmetic errors. In case of errors in the multiplication or addition in the annexed chart of the tender letter demonstrating the offered prices, these arithmetic errors shall be corrected by the tender commission ex officio, on the basis of the unit prices offered by the offerors. The corrected price shall be accepted as the actual offer. The Tender Commission evaluates all offers in term of price, operation and maintenance costs, cost-effectiveness, productivity, quality and technical merit. Tender Commissions shall decide the best offer that is economically most advantageous to the government. The

commission decisions are made according to a majority of the votes received. Members who disagree with the commission's decision must write down the justification for their dissenting position in the records of commission minutes. The decision of the Tender Commission is not the final decision and needs to be approved by the commander of the base or military element. The commander is free to reject all offers and cancel the procurement. After approval of the tender commission's decision, the contract shall be awarded to the economically most advantageous offer.

*f.        Inspection, Acceptance and Payment*

Inspection and acceptance of services are performed by the "Inspection Commissions," formed within the military base. Inspection commissions consist of at least three members, with the senior member the chairperson of the commission. One of the members has to be an expert in service or goods. Inspection commissions are responsible for ensuring that all goods delivered and services performed comply with the contract. The commission decides according to the majority of the votes. Payments are made to the contractor periodically (usually monthly) for services performed. However, the Commanding Officer should approve the payment order before funds are transferred. The Financial Office is responsible for ensuring that all documents conform to the rules and regulations, and making payment to the contractors.

**D.        SUMMARY**

The Performance-Based Service Acquisition (PBSA) concept developed and applied successfully in the DoD and federal environment in United States might be beneficial for the Turkish MOD. But Turkish acquisition rules and regulations can be barriers to implement PBSA within Turkey. There are two important and main laws that govern public acquisition process. These are Turkish Public Procurement Law (No: 4734) and Public Procurement Contracts Law (No: 4735), both of which were enacted in 2002 by the Turkish Parliament. These two laws were enacted to adjust Turkish acquisition procedures to the European Union regulations. The Turkish Public Acquisition Law allows government departments to outsource service from commercial firms. In the near

future, it is supposed that government will not enact any other law to regulate government acquisition process. This law allows government agencies to acquire a wide range of services including ill-defined and complex ones.

The strongest facet of PBSA is to give government an opportunity to use monetary incentives to motivate contractors and control cost and risk of the work to be performed. But in Turkey the only contract type used in the public acquisition process is firm-fixed price, and Procurement Contracts Law (No: 4735) does not allow government contracting entities to use incentives. This situation is not a barrier for implementing PBSA in Turkey, but in this case we cannot motivate contractors and get best value as much as the American government can do.

Another issue is that Turkish regulations force the government to dictate a solution by writing technical specifications and a SOW. Turkish Public Procurement Law mandates the use of the technical specification document in the acquisition process. In the Turkish service acquisition process, technical specifications and SOWs are always prepared by the government side. The writing of the technical specification documents and SOW requires a great deal of effort and expertise. Personnel responsible for writing technical specification documents and SOW spend significant time and effort on these activities. But they are not very successful in writing technical specification documents and SOW, simply because they are not expert in every service area. And sometimes their dictated solutions in these documents are not the best solution for the service required. This legal situation prevents industry from proposing their solutions to government. This is the most important drawback for the applicability of PBSA in Turkey.

There are not any permanent contracting branches or entities to carry out the acquisition process in Turkey. Usually some of the supply officers are assigned to the contracting office to conduct acquisition for three or four years. At the end of this time they might be assigned another position in the MOD. This is also a strong barrier to implementing PBSA in MOD, since this contracting concept requires a skilled and experienced acquisition workforce. It is very difficult to implement PBSA in MOD with the current acquisition personnel because this acquisition method requires careful consideration to prepare performance standards and metrics. Also, the inspection and

acceptance commissions are not permanent and their staffs are not expert in acquisition and logistics. To measure contractor performance, this commission should consist of skilled and expert personnel in logistics area

The industry is also an important element for the successful implementation of PBSA. As we know, PBSA have been used more than twenty years in the United States but there are some implementation problems. Industry is challenged to understand and submit proposals for this acquisition method. The service industry in Turkey is not developed and it is difficult for the industry to understand and propose solutions to government. In summary, to implement PBSA in MOD defense activities, new regulations should be enacted to allow government to incentivize contractors and accept industry solutions. Also, the current contracting workforce should be educated and assigned permanently to the contracting positions.

## **V. CONCLUSION**

### **A. SUMMARY**

We live in a commercial world in which most of the government agencies and commercial firms trade with each other. Today, this commercial world is very competitive and no agency or firm can do everything on their own. They usually use outsourcing to perform some of their mission. The government agencies also use service contracting to provide better service to the public. Their primary tool used for outsourcing is service contracts. These contracts provide a wide range of services that touch almost all of the departments' activities, including health care, support to intelligence activities, contracting support, and various professional, management and administrative services, such as budget and program management. In addition to these well-known and daily services, some service contracts provide a wide range of support to government defense missions. For example, U.S. troops in Afghanistan and Iraq are supported by service contractors who provide base support, weapons and equipment maintenance, communication support, interrogators, security, engineering support, and administrative support (United States Government Accountability Office, 2009).

But, it is difficult to ensure that government gets best value for the taxpayers' money and obtains quality services in a cost-efficient and effective manner in every service contract. Every contract has risk that the government may receive products or services that are over budget, delivered late and of unacceptable quality. To deal with these kinds of problems, Performance-Based Service Contracting may be a solution for government agencies. Government agencies can use PBSC as a method of procuring services from the private sector. In traditional service contracts, agencies usually spend their time in preparing detailed specifications or performance work statements for the contractors. The aim of these documents is to tell how to perform agencies' needs or solve agencies' problems. In these documents, the government agencies dictate their solution to the contractors. By doing so, government agencies try to solve their problems

instead of letting the contractors do what government agencies pay contractors to do. And, also, by binding the contractors to work statements, agencies impose their solution on the contractors.

PBSA is not a new acquisition technique. It has been used in United States for more than twenty years. In the current DoD procurement environment, Performance-Based Service Contracting has been a hot topic since April 1991, when the Office of Federal Procurement Policy (OFPP) issued Letter 91-2 on service contracting. Since that time, performance-based acquisition has become a business necessity in both the public and private business sectors. The U.S. federal government had mandated that agencies and departments comply with performance-based guidelines and requirements. The main goal of this concept is to get best value in response to taxpayer dollars spent. A major focus of the Bush Administration was to create a better government that is result-oriented. That is why procurement authorities focused on the result of the contracting rather than process. This approach leads PBSA to hold center stage in service acquisition and makes it a major trend within the federal procurement environment.

Performance-Based Service Acquisition is not, itself, a contract type. There is a common misperception that Performance-Based Service Contracting refers to a specific type of contract. PBSA is defined in FAR Part 37.6, which does not prefer any type of contract. Performance-Based Service Acquisition describes the desired outcome of the process rather than giving a detailed, “how to” process the contractor must follow. Describing the requirement in terms of desired outcomes give freedom to the contractor to choose the most efficient way to achieve a desired outcome. Performance-Based Service Acquisition is concerned with defining the tasks to be performed by the contractor, establishing observable and measurable performance standards in the requirements of the contract, and developing a method to assess the contractor’s performance in accordance with inspection and acceptance requirements of the contract. Performance-Based Service Acquisition requires that agencies tell industry “what” they want accomplished as opposed to “how” to accomplish the requirement. This approach shifts a majority of the risk for successful performance from the government to the contractor. It allows industry to use innovative practices and control their ability to make



profits based on their performance. Performance-Based Service Acquisition is the best way to motivate a contractor to take responsibility for achieving acceptable performance.

PBSA has unique characteristics that distinguish it from traditional contract methods. The primary characteristic of performance-based service acquisition is to describe the requirement in terms of the desired result to the maximum extent possible, and minimize orders that tell the contractor how to do the work or how to achieve the result. The other elements of Performance-Based Service Acquisition are stated below:

- Performance Work Statement
- Measurable performance standards (in terms of quality, timeliness, and quantity)
- A method of assessing contractor adherence to the standards
- Positive and negative performance incentives where appropriate

The Performance Work Statement is the most important element of a PBSA and the indicator for success. Without a SOW it is difficult to get best value and desired outcomes because PWS reflects the current state and the desired end-state. At this point, the government should not dictate the specification or the solution, which would minimize the opportunity for bidders to offer innovative solutions to the identified problem. That is one of the principle reasons for using the performance-based acquisition concept.

The measurable performance standards are another important factor for the success of the PBSA. The performance standards might be in terms of quality, timeliness and quantity. The standards must be measurable and structured to allow a fair and objective evaluation of the contractor's performance. These performance measures should be tied to the outcomes to be achieved and should be limited in number.

One important element of the PBSA is assessing contractor performance against the performance standards. The most common method for assessing contractor performance is the requirement for the government to have a quality assurance surveillance plan (QASP). The government may either prepare the QASP or require the contractor to submit a proposed plan for the government's use with its proposal. The last characteristic of PBSA is the use of performance incentives, where appropriate. Positive

incentives are critical for the desired outcomes. Incentives can be monetary or non-monetary positive or negative, but they should be positive to encourage contractors, and focused on the outcomes to be achieved.

In service acquisition, the main objective is to get the right service, at the right time and in the right manner. The services obtained should meet cost, schedule, and performance requirements. If PBSA is successfully implemented it can help improve service acquisition outcomes and ensure that the services obtained meet cost, schedule, and performance requirements. This is because PBSA describes outcome-oriented requirements, measurable performance standards, and quality assurance surveillance plan. Some of the other important objectives of PBSA were articulated by the United States Department of Defense (2000). DoD emphasized that, by describing requirements in terms of outcomes, agencies can help achieve the following objectives:

- Maximize Performance
- Maximize Competition and Innovation
- Encourage and Promote the Use of Commercial Services
- Shift in Risk
- Achieve Savings

## **B. CONCLUSION**

Procuring service from the private sector has become a point of emphasis in the world defense environment, especially in DoD. Today, approximately 60% of the DoD budget is spent for services acquisition. However, the percentage is small in Turkey. For example, for fiscal year 2009 49.2% of the total MOD budget was planned for procuring good and services. The main reason of limited service acquisition in MOD is perception that some services are part of the military function. For example, for many years food service was accepted as a function that must be carried out by the military. Another reason was lack of sufficient commercial market to provide services needed by MOD. However, with the growing Turkish economy, today it is easy to procure every kind of service professionally.

As compared with DoD service acquisition, Turkey's MOD service acquisition is small and limited, but day-by-day MOD is seeking commercial market solutions to carry out some service activities in order to free up troops for potential combat operations. The war-fighting capability is very important for Turkey because Turkey is located at the center of the Balkans, Caucasus and the Middle East, where the threats and risks are concentrated. This situation, stemming from Turkey's geostrategic location, has not changed until the present and will not change in the future. That is why Turkey should maintain a military force that will provide a deterrent influence on instability and uncertainty surrounding itself. Because of that, Turkish Defense Authorities are looking for ways to develop a smaller, deployable and more professional military force in the same way its European and North American allies have already done. Pursuit of a professional armed force encourages MOD to give up some services carried out by soldiers and procure them from the private sector. Another reason for MOD to procure services from the private sector is to benefit commercial market business practices. Today, the budget of MOD is limited and under strict controls of government and public. That is the reason why MOD is trying to find ways to get the best solution for its service requirements. MOD's main goal is to acquire goods and services in accordance with law, cost, schedule, and quality. MOD is procuring some services simply to reduce costs, increase quality and efficiency when reducing workforce. Although an acquisition service from the private sector creates opportunities for government and Turkish Public Acquisition Law gives permission, MOD does not use a wide range of services. Outsourcing is used only when procuring food, transportation and cleaning facilities services.

The aim of the service acquisition is to obtain the right service, at the right price, in the right way and from the right supplier. The Performance-Based Service Acquisition is not a perfect solution but is a preferred acquisition method when getting service in the Federal Acquisition environment. It has been used more than twenty years and mandated for federal service acquisition. Naturally, as with every system or process, it has benefits and challenges. In some cases it is a convenient tool to get best value for the taxpayer money. But in some cases it is too difficult to implement this acquisition concept.

The Office of Federal Procurement Policy (1998) study on performance-based contracts for service acquisition showed that benefits including reduced acquisition cost, increased competition for contracts and improved contractors performance had been achieved. When properly structured, PBSA allows government to reduce cost and increase service quality. PBSA offers the federal government significant gain in cost savings, contractor responsibility, and better performance; reduces quality shortcomings and increases customer satisfaction. The followings are the expectations and benefits identified in previous chapters. PBSA:

- Encourages and promotes contractors to be innovative and find cost effective ways of delivering services
- Gives the contractors more flexibility in general to achieve desired results
- Shifts risk to contractors so they are responsible for achieving the objectives
- Maximizes competitions and innovation
- Results in better prices and performance
- Expects contractors to control costs and achieve cost savings
- Encourages contractors and government to work together to provide the best service to customer
- Eliminates day-to-day monitoring
- Allows government workforce to focus on outcomes of the contract

Although more than twenty years has passed and lots of training support has been provided, General Accounting Office reports and OFFP studies show us that there are implementation problems, challenges and unsatisfactory performance results from PBSA. These problems and challenges identified in reports and articles do not only affect the government side but also they deeply affect the contractors and industry. These challenges and implementation problems affect the government's ability to get best value for the taxpayer dollars spent. Unsuccessful implementations also prevent government from benefiting from the creativity and innovation of private industry. As GAO (2008) stated despite its government-wide acceptance, concerns have been raised how well agencies are using performance-based approach. For more than twenty years, agencies have been encouraged to use PBSA but the government has not reached the intended

level of progress. There are many reasons for this slow progress and unsuccessful results. FCS Group's (2005) study, "Best Practices and Trends in Performance Based Contracting" is one of the articles that raised concerns related to PBSA and identified a variety of issues and problems occurring when agencies use this acquisition concept. The following are the important problems and challenges:

- Poor requirements and performance measures defining
- Lack of skilled and trained acquisition workforce
- Lack of coordination between agencies' departments and experts
- Inadequate oversight of contract
- Misunderstanding that PBSA takes more time than traditional ones
- Difficulties to give up previous contracting habits
- The fear of change and resistance against new acquisition approach
- The perception that performance measures are difficult to understand and complicated to implement
- Try to implement all kinds of service acquisitions
- The shift of changing emphasis from process to outputs
- Lack of knowledge about performance-based acquisition
- Lack of communication between contractors and government

PBSA proposes solution for the government agencies to improve service quality and reduce costs. Properly structured PBSA allows government to get best value by reducing cost and increasing service quality. PBSA offers government significant gain in cost savings, contractor responsibility, and better performance; reduces quality shortcomings and customer satisfaction. PBSA has been used in the DoD environment successfully for years and recent administrations have given importance to it. The outsourcing of service in the Turkish MOD is not a new acquisition concept. MOD has been procuring services from the private sector for many years. But it cannot be said that every service acquisition in MOD provides best value to the Turkish taxpayers. To deal with this problem this research aimed to propose Performance-Based Service Contracting as a solution to the Turkish Ministry of Defense policy makers. But at the beginning of this research there are some concerns and question about the application of the Performance-Based Service Contracting to Turkish Ministry of Defense procurement

process. The most important ones and also focused question of this research is that “Is Performance-Based Service Contracting an appropriate procurement concept to support Turkey Ministry of Defense operations.” This research is primarily focused on and concerned with answering this question.

Based on findings from previous chapters, this research recommended that it is time to consider PBSA as an acquisition solution in the Ministry Of Defense environment when procuring services. PBSA is a new concept for the Turkish Ministry f Defense acquisition workforce and may cause risks and problems. But if the importance of PBSA is understood, these risks and problems can be solved and solutions can be developed to overcome challenges. The PBSA concept has great potential to facilitate service acquisition activities and increase quality in the Turkish Ministry Of Defense procurement process. PBSA implementation might be applicable to the Turkish Ministry Of Defense service acquisition activities if the required legal regulations are enacted. To implement BPSA in Ministry Of Defense activities, new regulations should be enacted to allow government to incentivize contractors and accept industry solutions. This legal process requires the Turkish Parliament’s close cooperation. Also, the current contracting workforce should be educated and assigned permanently to the contracting positions.

### **C. AREAS FOR FURTHER RESEARCH**

In today’s world, outsourcing services from the private sector is good business practice for both commercial firms and government agencies when they perform their mission. This business practice allows government agencies to focus on their primary functions. Service acquisition is commonly used in the United States DoD acquisition environment and stands on 60 percent of DoD budget. When DoD procures service from the private sector it has to ensure that the taxpayer’s money gets best value in return for service contract. That is why PBSA was developed and mandated in the United States. PBSA has been used as a primary tool to get best value in return for every taxpayer dollar spent.

As compared with DoD, Turkey MOD spends a smaller percentage of its defense budget to procure service from private sector but service acquisition is used commonly

for some specific services. All of the services that are procured by MOD are simple, well-defined and repetitive requirements. Performance objectives for these kinds of requirements can be easily defined. It is not difficult to measure contractors' performance at the end of the acquisition process. In Turkey, however, the best value concept and contractor performance have not been questioned until now. Political and public pressure on the MOD budget obligate MOD to spend its budget effectively. It is evaluated that in the near future Turkish MOD will outsource much more and different kinds of services from private sector to perform its mission. For these reason PBSA can be good tool to procure services from private sector and can be solution for MOD to get best value in return for current services acquisitions.

But, Turkish acquisition rules and regulations can be barriers to implement Performance Based Service Acquisition within Turkey. There are some legal constraints that might affect the application of PBSC within the Turkish MOD. In Turkey, the only contract type used in the public-acquisition process is firm-fixed price and Procurement Contracts Law (No: 4735) does not allow government contracting entities to use incentives, which prevents government side from motivating contractors and get best value as much as American government can do. There are many implementation problems stemming from both government and industry sides in the U.S., where this acquisition method developed. It is difficult to implement PBSA in MOD with the current acquisition personnel because this acquisition method requires careful consideration to prepare performance standards and metrics.

To overcome all these barriers and problems it needs further research. This research is just a starting point and it does not cover all the topics related to the PBSA. This MBA research only explains PBSA in general terms rather than in a detailed manner. Further research may add greater understanding of the PBSA concept and its possible contributions to Turkey's public procurement process. The followings are the important topics in need of further research.

- What should be done to deal with legal barriers that prevent the implementation of PBSA effectively in Turkish public procurement process?

- What are the training requirements to implement PBSA in Turkish Ministry of Defense procurement environment?
- Which services type Turkish Ministry of Defense mostly used are suitable for the PBSA?
- Which organizational change should be done to implement PBSA successfully in Turkish Ministry of Defense procurement environment?

PBSA is a new procurement concept for Turkey, one that still has many questions and problems. This research could not address them all. Its intent was to call the attention of Ministry of Defense policy makers to this procurement concept. The ultimate goal of this research is to serve Turkey and the Turkish people by introducing a new contracting method to save money and increase the quality of service that is procured from the private sector.



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